

cable. In such cases the Commissioner or Secretary may, pursuant to application and upon good cause being shown therefor, permit additional evidence to be presented for the purpose of curing defects in the proofs of record.

Intervention.

Rule 97. No person shall be allowed to intervene in any case except upon application therefor, under oath, showing his interest therein.

These Rules of Practice will be effective on and after February 1, 1911.

Fred Dennett,
Commissioner of the General Land Office.

Approved: December 9, 1910.

R. A. Ballinger,
Secretary.

Regulations Governing the Recognition of Agents and Attorneys Before District Land Officers.

The following matter relative to attorneys has been taken from the Rules of Practice in force prior to February 1, 1911:

1. An attorney at law who desires to represent claimants or contestants before a district land office must file a certificate, under the seal of a United States, State, or Territorial court for the judicial district in which he resides or the local land office is situated, that he is an attorney in good standing.

2. Any person (not an attorney at law) who desires to appear as an agent for claimants or contestants before a district land office must file a certificate from a judge of a United States court, or of a State or Territorial court having common-law jurisdiction, except probate courts, in the county wherein he resides or the local office is situated, duly authenticated under the seal of the court, that such person is of good moral character and in good repute, possessed of the necessary qualifications to enable him to render clients valuable service, and otherwise competent to advise and assist them in the presentation of their claims or contests.

3. The oath of allegiance required by section 3478 of the United States Revised Statutes must also be filed by applicants. In case of a firm, the names of the individuals composing the firm must be given, and a certificate and oath as to each member of the firm will be required.

4. An applicant to practice under the above regulations must address a letter to the Register and Receiver, inclosing the certificate and oath above required, in which letter his full name and postoffice address must be given. He must state whether or not he has ever been recognized as an attorney or agent before this Department or any bureau thereof, or any of the local land offices, and, if so, whether he has ever been suspended or disbarred from practice. He must also state whether he holds any office under the Government of the United States.

After an application to practice has been filed in due form, the Register and Receiver will recognize the applicant as an attorney or agent, as the case may be, unless they have good reason to

believe that the person making the application is unfit to practice before their offices, or unless otherwise instructed by the Commissioner or Secretary.

Registers and Receivers must keep a record of the names and residences of all attorneys and agents recognized as entitled to represent clients in their several offices.

Every attorney must, either at the time of entering his appearance for a claimant or contestant or within thirty days thereafter, file the written authority for such appearance, signed by said claimant or contestant, and setting forth his or her present residence, occupation, and postoffice address. Upon a failure to file such written authority within the time limited, it is the duty of the Register and Receiver to no longer recognize him as attorney in the case.

An attorney in fact will be required to file a power of attorney of his principal, duly executed, specifying the power granted and stating the party's present residence, occupation, and postoffice address.

When the appearance is for a person other than a claimant or contestant of record, the attorney or agent will be required to state the name of the person for whom he appears, his postoffice address, the character and extent of his interest in the matter involved, and when and from what source it was acquired. Authorizations and powers signed or executed in blank will not be recognized.

If any attorney or agent shall knowingly commit any of the following acts, viz: Represent fictitious or fraudulent entrymen; prosecute collusive contests; speculate in relinquishments of entries; assist in procuring illegal or fraudulent entries or filings; represent himself as the attorney or agent of entrymen when he is only attorney or agent for a transferee or mortgagee; conceal the name or interest of his client; give pernicious advice to parties seeking to obtain title to public land; attempt to prevent a qualified person from settling upon, entering, or filing for a tract of public land properly subject to such entry or filing, or be otherwise guilty of dishonest or unprofessional conduct, or who, in connection with business pending in local land offices or in this Department, shall knowingly employ as subagent, clerk, or correspondent a person who has been guilty of any one of these acts, or who has been prohibited from practicing before the Register and Receiver or this Department, it will be sufficient reason for his disbarment from practice, and Registers and Receivers are authorized to refuse to further recognize any person as agent or attorney who shall be known to them or be proven before them to be guilty of improper and unprofessional conduct as above stated.

An attorney or agent who has been admitted to practice in any particular land district may be enrolled and authorized to practice in any other district upon filing with the Register and Receiver of such district a certificate of the Register or Receiver before whom he was admitted to practice that he is an attorney or agent in good standing.

Any unprofessional conduct on the part of an attorney or agent should be reported to the Commissioner at once, together with the action of the local land officers in the premises.

Appeals from the action of the Register and Receiver in refusing

to admit to practice or in refusing to further recognize an agent or attorney will lie to the Commissioner and Secretary, as in other appealable cases. (Circular approved March 19, 1887, 5 L. D., 509.)

Laws and Regulations Governing the Recognition of Agents, Attorneys, and Other Persons to Represent Claimants Before the Department of the Interior and the Bureaus Thereof.

1.—Laws.

The following statutes relate to the recognition of attorneys and agents for claimants before this Department:

“That the Secretary of the Interior may prescribe rules and regulations governing the recognition of agents, attorneys, or other persons representing claimants before his Department, and may require of such persons, agents, or attorneys, before being recognized as representatives of claimants, that they shall show that they are of good moral character and in good repute, possessed of the necessary qualifications to enable them to render such claimants valuable service, and otherwise competent to advise and assist such claimants in the presentation of their claims; and such Secretary may, after notice and opportunity for a hearing, suspend or exclude from further practice before his Department any such person, agent, or attorney shown to be incompetent, disreputable, or who refuses to comply with the said rules and regulations, or who shall with intent to defraud in any manner deceive, mislead, or threaten any claimant or prospective claimant by word, circular, or letter, or by advertisement.” (Act July 4, 1884, sec. 5; 23 Stats., 101.)

“Every officer of the United States, or person holding any place of trust or profit, or discharging any official function under, or in connection with, any Executive Department of the Government of the United States, or under the Senate or House of Representatives of the United States, who acts as an agent or attorney for prosecuting any claim against the United States, or in any manner, or by any means, otherwise than in discharge of his proper official duties, aids or assists in the prosecution or support of any such claim, or receives any gratuity, or any share of or interest in any claim from any claimant against the United States, with intent to aid or assist, or in consideration of having aided or assisted, in the prosecution of such claim, shall pay a fine of not more than five thousand dollars, or suffer imprisonment not more than one year, or both.” (Section 5498, Revised Statutes.)

“It shall not be lawful for any person appointed after the first day of June, one thousand eight hundred and seventy-two, as an officer, clerk, or employe in any of the departments, to act as counsel, attorney, or agent for prosecuting any claim against the United States which was pending in either of said departments while he was such officer, clerk, or employe, nor in any manner, nor by any means, to aid in the prosecution of any such claim, within two years next after he shall have ceased to be such officer, clerk, or employe.” (Section 190, Revised Statutes.)

“Any person prosecuting claims, either as attorney or on his own account, before any of the departments or bureaus of the United States, shall be required to take the oath of allegiance, and

to support the Constitution of the United States, as required of persons in the civil service." (Section 3478, Revised Statutes.)

"The oath provided for in the preceding section may be taken before any justice of the peace, notary public, or other person who is legally authorized to administer an oath in the State or district where the same may be administered." (Section 3479, Revised Statutes.)

The Act of May 13, 1884, sec. 2 (23 Stats., 22), provides that the oath above required shall be that prescribed by section 1757, Revised Statutes, which is as follows:

I, A B, do solemnly swear (affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

2.—Regulations.

1. Under the authority conferred on the Secretary of the Interior by the fifth section of the Act of July 4, 1884, it is hereby prescribed that an attorney at law who desires to represent claimants before the Department or one of its bureaus shall file a certificate of the clerk of the United States, State, or Territorial court, duly authenticated under the seal of the court, that he is an attorney in good standing.

2. Any person (not an attorney at law) who desires to appear as agent for claimants before the Department or one of its bureaus must file a certificate from a judge of a United States, State, or Territorial court, duly authenticated under the seal of the court, that such person is of good moral character and in good repute, possessed of the necessary qualifications to enable him to render claimants valuable service, and otherwise competent to advise and assist them in the presentation of their claims.

3. The Secretary may demand additional proof of qualifications, and reserves the right to decline to recognize any attorney, agent, or other person applying to represent claimants under this rule.

4. The oath of allegiance required by section 3478 of the United States Revised Statutes must also be filed.

5. In the case of a firm, the names of the individuals composing the firm must be given, and a certificate and oath as to each member of the firm will be required.

6. Unless specially called for, the certificate above referred to will not be required of any attorney or agent heretofore recognized and now in good standing before the Department.

7. An applicant for admission to practice under the above regulations must address a letter to the Secretary of the Interior, inclosing the certificate and oath above required, in which letter his full name and postoffice address must be given. He must state whether or not he has ever been recognized as attorney or agent before this Department or any bureau thereof, and, if so, whether he has ever been suspended or disbarred from practice. He must also state whether he holds any office of trust or profit under the Government of the United States.

8. No person who has been an officer, clerk, or employe of this Department within two years prior to his application to appear in

any case pending herein shall be recognized or permitted to appear as an attorney or agent in any such case as shall have been pending in the Department at or before the date he left the service: Provided, This rule shall not apply to officers, clerks, or employes of the Patent Office, nor to cases therein.

9. Whenever an attorney or agent is charged with improper practices in connection with any matter before a bureau of this Department, the head of such bureau shall investigate the charge, giving the attorney or agent due notice, together with a statement of the charge against him, and allow him an opportunity to be heard in the premises. When the investigation shall have been concluded, all the papers shall be forwarded to the Department, with a statement of the facts and such recommendations as to disbarment from practice as the head of the bureau may deem proper, for the consideration of the Secretary of the Interior. During the investigation the attorney or agent will be recognized as such, unless for special reasons the Secretary shall order his suspension from practice.

10. If any attorney or agent in good standing before the Department shall knowingly employ as subagent or correspondent a person who has been prohibited from practice before the Department, it will be sufficient reason for the disbarment of the former from practice.

11. Upon the disbarment of an attorney or agent, notice thereof will be given to the heads of bureaus of this Department, and to the other Executive Departments; and thereafter, until otherwise ordered, such disbarred person will not be recognized as attorney or agent in any claim or other matter before this Department of any bureau thereof.

[In reply please refer to Circular No. 127.]

APPLICATIONS TO PRACTICE BEFORE LOCAL OFFICES.

Department of the Interior,
General Land Office,
Washington, June 11, 1912.

Registers and Receivers.

Sirs: Hereafter whenever there is filed with you an application to practice as agent or attorney before your office you will defer action thereon, advise the Chief of Field Division of the filing thereof, and await his report on the same. Where the Chief of Field Division advises you that there is no objection on his part to the admission of the applicant you will proceed to act upon the same in the usual way and in your report on Form 4-285 to this office you will state that the Chief has reported favorably on the application. In case he reports that he desires to make a report to this office you will further defer action until receipt of advice from this office.

Very respectfully,

Fred Dennett,
Commissioner.

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- 2488...1, 312; 3, 522; 4, 371; 5, 37, 100; 6, 684; 13, 130; 14, 248, 253; 23, 230; 24, 27, 69; 26, 94; 30, 574; 31, 305, 307, 309.
- 2490...5, 102; 23, 308; 30, 395.
- 3220...5, 574.
- 3229...5, 240.
- 3477...14, 101; 17, 217; 21, 366; 30, 5, 435; 36, 390, 564; 38, 471; 39, 145, 148.
- 3478...3, 114; 5, 388, 508.
- 3479...5, 388.
- 3469...5, 240.
- 3617...1, 521; 35, 570.
- 3631...23, 480.
- 3689...24, 540.
- 3732...19, 379.
- 3743...40, 140, 142.
- 3744...40, 140, 141, 142.
- 3745...40, 140, 143.
- 3746...40, 140, 143.
- 3747...40, 140, 143.
- 3879...1, 538; 19, 379.
- 3690...18, 194; 19, 373.
- 3831...9, 551.
- 5013...2, 681.
- 5182...2, 658.
- 5263...26, 572; 29, 2.
- 5264...29, 2.
- 5265...29, 2.
- 5266...29, 2.
- 5267...29, 2.
- 5268...26, 572; 29, 2.
- 5388...30, 24.
- 5428...13, 725.
- 5440...4, 469.
- 5481...2, 666.
- 5492...37, 495.
- 5498...4, 55; 5, 237; 22, 435; 33, 654.
- 5595...1, 413.
- 5596...1, 418; 2, 604, 609; 30, 574.

INSTRUCTIONS GOVERNING REPAYMENTS.

Department of the Interior,
General Land Office,
Washington, D. C., July 23, 1910.

To Registers and Receivers of United States Land Offices.

Gentlemen: Your attention is called to the following provisions of the Act of Congress approved June 16, 1880 (21 Stat., 287), entitled "An Act for the relief of certain settlers on the public lands, and to provide for the payment of certain fees, purchase money, and commissions paid on void entries of public lands":

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in all cases where it shall, upon due proof being made, appear to the satisfaction of the Secretary of the Interior that innocent parties have paid the fees and commissions and excess payments required upon the location of claims under the act entitled "An Act to amend an act entitled 'An Act to enable honorably discharged soldiers and sailors, their widows and orphan children, to acquire homesteads on the public lands of the United States,' and amendments thereto," approved March third, eighteen hundred and seventy-three, and now incorporated in section twenty-three hundred and six of the Revised Statutes of the United States, which said claims were, after such location, found to be fraudulent and void, and the entries or locations made thereon canceled, the Secretary of the Interior is authorized to repay to such innocent parties the fees and commissions and excess payments paid by them, upon the surrender of the receipts issued therefor by the receivers of public moneys, out of any money in the Treasury not otherwise appropriated, and shall be payable out of the appropriation to refund purchase money on lands erroneously sold by the United States.

Sec. 2. In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and can not be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase money, and excesses paid upon the same, upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office, and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns.

Sec. 3. The Secretary of the Interior is authorized to make the payments herein provided for out of any money in the Treasury not otherwise appropriated.

Sec. 4. The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this act into effect; and for the repayment of the purchase money and fees herein provided for the Secretary of the Interior shall draw his warrant on the Treasury and the same shall be paid without regard to the date of cancellation of the entries.

The foregoing act is additional to the provisions of sections 2362 and 2363, United States Revised Statutes.

APPLICATIONS.

1. Applications for repayment of fee, commissions, excess and purchase money should be made in the following or equivalent form:
To the Commissioner of the General Land Office.

Sir: I hereby make application for repayment of the purchase money paid on entry of the of section, township, range, as per certificate No., issued at, bearing date the day of, 1....

(Applicant sign here. Give P. O. address.) ,

State of, County of, ss.

On this day of, 19.., before the subscriber, a in and for said county, personally came, to me well known to be the person who subscribed the foregoing application, who, being duly sworn, on oath, declares that has not sold, assigned, nor in any manner encumbered, the title to the tract of land described in said application, and that the same has not become a matter of record.

(Applicant sign here.) ,

Subscribed and sworn to before me this day of, A. D. 19..

The affidavit may be made before the register or receiver, or any officer authorized to administer oaths. When made before a justice of the peace, a certificate of official character is required.

FEEES, COMMISSIONS, EXCESSES, ETC.

On fraudulent and void additional soldier and sailor entries.

2. The first section of the act authorizes the payment "to innocent parties" of the fees, commissions, etc., paid by them on fraudulent and void additional soldier and sailor homestead entries which have been canceled.

Repayment of fees, commissions, and excesses under section 1 can be made only to the party who paid the same. A conveyance of the land in these cases will not be deemed to carry with it the right to repayment.

Applications for repayment under this section must be accompanied by the duplicate receipt, or evidence of the loss of the same, and by a concise statement under oath setting forth all the facts and circumstances connected with the procurement and use of the fraudulent papers upon which the canceled entries were based, together with such documentary or other proof as may tend to establish the innocence of the parties relative thereto.

On entries canceled for conflict, or where the same have been erroneously allowed and can not be confirmed.

The first clause of the second section of the act provides:

3. For the repayment of purchase money and of fees, commissions, and excess payments, where entries of public lands are canceled for conflict, "or where, from any cause, the entry has been erroneously allowed and can not be confirmed."

In the case of applications for the payment of fees, commissions, etc., on canceled homestead and other entries, under the second section of the act, the duplicate receipt or duplicate certificate must be surrendered, together with a relinquishment in the following or equivalent form:

....., 19..
 I hereby relinquish to the United States all my right, title, and claim in and to the land described in receipt No., issued at, 1... being for the of section, township, and range

Witness:

.....

Acknowledged before me this day of, 19..

This relinquishment may be acknowledged before the register or receiver or before any officer authorized to take acknowledgments.

4. If the duplicate receipt or duplicate certificate has been lost or destroyed, an affidavit stating the fact must be furnished, together with a relinquishment in effect as in the above form.

DOUBLE-MINIMUM EXCESS.

The last clause of the second section of the act provides that "in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of \$1.25 per acre shall in like manner be repaid to the purchaser thereof or to the heirs or assigns."

5. Applications for repayment of double-minimum excess should be made in the following form:

To the Commissioner of the General Land Office.

Sir: hereby make application for repayment of the double-minimum excess paid on entry of the of section, township, range, as per certificate No., issued at, bearing date the day of, 1....

(Applicant sign here. Give P. O. address.)

County of, State of, ss.

On this day of, 19.., before the subscriber, a in and for said county, personally came, to me well known to be the person who subscribed to the foregoing application, who, being duly sworn, on oath declares that has not sold or assigned right in any way to the double-minimum excess described in said application.

(Applicant sign here.)

Subscribed and sworn to before me this day of, A. D. 19..

6. The applicant must also furnish a corroborated affidavit showing that he is the identical party who made the entry on which repayment is claimed. Repayment of double-minimum excess will be made only to the original entryman, his heirs or assigns. The sale and transfer of the land is not of itself treated as an assignment of the right to receive repayment of double-minimum excess.

PURCHASE MONEY.

Where patent has not been issued, and the title has not otherwise become a matter of record.

7. In applications for repayment where patent has not issued, the duplicate receipt or duplicate certificate must be surrendered. The applicant must make affidavit that he has not transferred or otherwise encumbered the title to the land and that the same has not become a matter of record.

Where the duplicate receipt or duplicate certificate has been lost or destroyed, a certificate will also be required from the proper recording officer, showing that the same has not become a matter of record and that there is no incumbrance of the title to the land thereunder. A like certificate must be furnished when the application is made by another than the original purchaser.

Where title has become a matter of record.

8. Where the title has become a matter of record, and in all cases where patent has issued, a duly executed deed, relinquishing to the United States all right and claim to the land under the entry or patent, must accompany the application. This deed must be duly recorded, and a certificate must also be produced from the proper recording officer where the land is situated, showing that said deed is so recorded and that the records of his office do not exhibit any other conveyance or incumbrance of the title to the land.

Where a valid title to the land embraced in a canceled entry has been conveyed by the Government to other parties, the applicant for repayment under such canceled entry must reconvey to the United States the title derived from such invalid entry. If, however, the applicant has acquired the valid title already conveyed by the United States, it will not be necessary for him to reconvey the land, but he may make a full statement, with corroborative evidence of the facts, waiving all claim under the invalid entry, and thereupon receive repayment of the amount erroneously paid.

The reconveyance to the United States must conform in every particular to the laws of the State or Territory in which the land is located relative to transfers of real property; in the case of a married man, in localities where the right of dower exists, there must be a release of dower by the wife, and in case of an executor or administrator, due proof of authority to alienate the estate.

Where a patent has been executed and delivered it must be surrendered.

HEIRS, EXECUTORS, ADMINISTRATORS, AND ASSIGNEES.

9. Where application is made by heirs, satisfactory proof of heirship is required. This must be the best evidence that can be obtained, and must show that the parties applying are the heirs and the only heirs of the deceased.

10. Where application is made by executors, a certificate of executorship from the probate court must accompany the application.

11. Where application is made by administrators, the original, or a certified copy, of the letters of administration must be furnished.

12. Where applications are made by assignees, the applicants must show their right to repayment by furnishing properly authenticated abstracts of title, or the original deeds or instruments of assignment, or certified copies thereof, and also show by affidavits or otherwise that they have not been indemnified by their grantors or assignors for the failure of title, and that title has not been perfected in them by their grantors through other sources.

13. Where there has been a conveyance of the land and the original purchaser applies for repayment, he must show that he has indemnified his assignee or perfected the title in him through another source, or produce a full reconveyance to himself from the last grantee or assignee.

ASSIGNEES.

Those persons are assignees, within the meaning of the statutes authorizing the repayment of purchase money, who purchase the land after the

entries thereof are completed and take assignments of the title under such entries prior to complete cancellation thereof, when the entries fail of confirmation for reasons contemplated by the law. To construe said statutes so as to recognize the assignment or transfer of the mere claim against the United States for repayment of purchase money, or fees and commissions, disconnected from a sale of the land or attempted transfer of title thereto, would be against the settled policy of the Government and repugnant to section 3477 of the Revised Statutes. (2 Lawrence, First Comp. Dec., 264, 266, and 6 Dec. Comp. of the Treasury, 334, 359.)

Assignees of land who purchase after entry are, in general, deemed entitled to receive the repayment when the lands are found to have been erroneously sold by the Government. But this rule does not apply to the repayment of double-minimum excesses. (First Comp. Dec. in case of Adrian B. Owens, Copp's Pub. Land Laws, 1890, vol. 2, p. 1238.)

DEFINITION OF "ERRONEOUSLY ALLOWED."

This can not be given an interpretation of such latitude as would countenance fraud. If the records of the Land Office, or the proofs furnished, should show that the entry ought not to be permitted, and yet it was permitted, then it would be "erroneously allowed." But if a tract of land were subject to entry, and the proofs showed a compliance with law, and the entry should be canceled because the proofs were shown to be false, it could not be held that the entry was "erroneously allowed"; and in such case repayment would not be authorized.

TRANSMITTAL OF APPLICATIONS.

14. Applications for repayment may be filed either in this office or in the proper district land office.

When an application is filed in the district land office the register and receiver shall transmit the same with a full report of the facts in the case, as shown by their official records, and recommend either the allowance or the disallowance of the claim. When an application is filed, either in the district land office or in this office, it should be accompanied by a statement setting forth fully the grounds upon which repayment is claimed.

Very respectfully,
Approved July 23, 1910.
Frank Pierce,
Acting Secretary.

Fred Dennett,
Commissioner.

INSTRUCTIONS UNDER ACT OF MARCH 26, 1908.

Department of the Interior,
General Land Office,
Washington, D. C., July 23, 1910.

To Registers and Receivers of United States Land Offices.

Gentlemen: Your attention is called to the following provisions of the Act of Congress approved March 26, 1908 (35 Stat., 48), entitled "An Act to provide for the repayment of certain commissions, excess payments, and purchase moneys paid under the public land laws":

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That where purchase moneys and commissions paid under any public land law have been or shall hereafter be covered into the Treasury of the United States under any application to make any filing, location, selection, entry, or proof, such purchase moneys and commissions shall be repaid to the person who made such application, entry, or proof, or to his legal representatives, in all cases where such application, entry, or proof has been or shall hereafter be rejected, and neither such applicant nor his legal representatives shall have been guilty of any fraud or attempted fraud in connection with such application.

Sec. 2. That in all cases where it shall appear to the satisfaction of the Secretary of the Interior that any person has heretofore or shall hereafter make any payments to the United States under the public land laws in excess of the amount he was lawfully required to pay under such laws, such excess shall be repaid to such person or to his legal representatives.

Sec. 3. That when the Commissioner of the General Land Office shall ascertain the amount of any excess moneys, purchase moneys, or commissions

in any case where repayment is authorized by this statute, the Secretary of the Interior shall at once certify such amounts to the Secretary of the Treasury, who is hereby authorized and directed to make repayment of all amounts so certified out of any moneys not otherwise appropriated and issue his warrant in settlement thereof.

The foregoing act is additional to the provisions of sections 2362 and 2363, United States Revised Statutes, and to the Act of June 16, 1880 (21 Stat., 287).

The first section authorizes the return to the applicant, or to his legal representatives, of purchase moneys and commissions covered into the Treasury of the United States under any application to make any filing, location, selection, entry, or proof, where such application has been or shall hereafter be rejected, in cases where neither the applicant nor his or her legal representatives shall have been guilty of any fraud or attempted fraud in connection with said application.

This section refers more particularly to moneys covered into the Treasury of the United States as directed in office circular "M" of May 16, 1907 (35 L. D., 568), and circular letter "M" of July 26, 1907; that is, moneys deposited with proof under the timber and stone, desert land, coal land, or mineral land laws.

APPLICATIONS.

Applications for repayment under this section should be made in the following or equivalent form:

To the Commissioner of the General Land Office.

Sir: I hereby make application for the return of the purchase money and commissions paid with my under the law, for the of section, township, range, as per receiver's receipt No., issued at, bearing date the day of, 19.., and which is surrendered herewith, and on oath declare that I am the identical (or legal representative of the) person who made said payment, and that there was no fraud or attempted fraud in connection with the effort to obtain title to the described tract of land. *.....

* If the receipt has been lost or destroyed, so state.

(Applicant sign here.)

(P. O. address.)

State of, County of, ss.

Subscribed and sworn to before me this day of, 19..

The affidavit may be made before the register or receiver, or any officer authorized to administer oaths. When made before a justice of the peace, a certificate of official character is required.

The second section authorizes the return to the person who made the payment, or to his legal representatives, of any moneys paid under any of the land laws of the United States, in excess of the legal requirements.

APPLICATIONS.

Applications for repayment under this section should be made in the following or equivalent form:

To the Commissioner of the General Land Office.

Sir: I hereby make application for the return of the amount paid in excess of the lawful requirements on entry of the of section, township, range, as per receiver's receipt No., issued at, bearing date the day of, 19.., and on oath declare that I am the identical (or legal representative of the) person who made said payment.

(Applicant sign here.)

(P. O. address.)

State of, County of, ss.

Subscribed and sworn to before me this day of, 19..

Affidavits in this class of claims may also be made before the register

or receiver, or any officer authorized to administer oaths. When made before a justice of the peace, a certificate of official character is required.

HEIRS, EXECUTORS, AND ADMINISTRATORS.

Where application is made by heirs, satisfactory proof of heirship is required. This must be the best evidence that can be obtained, and must show that the parties applying are the heirs and the only heirs of the deceased.

Where application is made by executors, a certificate of executorship from the probate court must accompany the application.

Where application is made by administrators, the original, or a certified copy, of the letters of administration must be furnished.

Section 3477, United States Revised Statutes, prohibits the transfer or assignment of claims against the United States, and, therefore, any attempted transfer or assignment of a claim under either of the before-mentioned sections can not be recognized.

TRANSMITTAL OF APPLICATIONS.

Applications for repayment may be filed either in this office or in the proper district land office.

When an application is filed in the district land office the register and receiver shall transmit the same with a full report of the facts in the case, as shown by their official records, and recommend either the allowance or the disallowance of the claim.

The third section of the act directs the Secretary of the Interior to at once certify to the Secretary of the Treasury the amount of any excess moneys, purchase moneys, or commissions, ascertained by the Commissioner of the General Land Office to be due under this act, and the Secretary of the Treasury is authorized and directed to make repayment of all amounts so certified out of any moneys not otherwise appropriated and to issue his warrant in settlement thereof.

CREDIT FOR PRIOR PAYMENT IN SECOND APPLICATION TO COMMUTE.

In cases where the commutation homestead proof, upon which you have issued certificate and receipt, has been rejected by this office, the certificate canceled and the original entry allowed to stand subject to future compliance with the law, if second commutation proof is accepted and credit is allowed for the purchase money paid on the first proof, the register will issue his certificate, bearing proper number and date, noting thereon:

“Purchase money, \$.... paid,, 19.., per receiver’s receipt No.”

The receiver will show on his “Abstract of collections on commuted homesteads” the date of the register’s certificate, the name of the entryman, and the purchase money in the proper columns, in (), with the above notation on a separate line. The amount will not be included in the footing.

The receiver will issue receipt (Form 4-131) for testimony fees paid on the second proof, with notation to show that the “purchase money was paid, 19.., per receiver’s receipt No.”

Before allowing credit on account of payment in a prior canceled cash entry, as hereinbefore set forth, the register and receiver are charged with the duty of securing the approval of the Commissioner of the General Land Office therefor.

Very respectfully,

Approved July 23, 1910.

Frank Pierce,
Acting Secretary.

Fred Dennett,
Commissioner.

DIGEST OF DECISIONS ON REPAYMENT.

“A desert entry of land embraced within a prior preemption filing is not an entry ‘erroneously allowed’ within the meaning of the repayment act, though an entry so made is subject to the subsequent assertion of the pre-emptor’s right.”

“The provisions of Section 2362, Revised Statutes, and of the Act of June 16th, 1880, with respect to repayment, contemplate relief only in cases where for some reason not within the entryman’s control, title to the land cannot be passed by the Government.” Citing J. N. Cauzell, 24 L. D., 575.

"Repayment should be allowed if 'from any cause' the entry was erroneously allowed and no fraud appears."

Instructions, 1 L. D., 526.

See also table Circulars, Instructions, and Regulations.

"In case of an entry that is 'erroneously allowed' for land not subject thereto, and canceled for that reason, repayment may be granted without inquiry as to the truth or falsity of the final proof."

W. E. McCord, 23 L. D., 137.

"An entry is not 'erroneously allowed' within contemplation of the repayment statute where the alleged defect is not of such a character as to necessarily defeat confirmation of the entry, and might have been cured by compliance with the requirements of the General Land Office."

Anthracite Mesa Coal Mining Company, 28 L. D., 551.

"The right to does not exist where the entry is properly allowed or proofs presented, but is subsequently canceled on the ascertainment it was procured on the false and misleading representations of the entryman."

Felix McGinn, 25 L. D., 29.

Crayton P. Bryant, 25 L. D., 30.

Edw. H. Sanford, 26 L. D., page 3.

W. H. Irvine, L. D., 422.

"If the land entered is not of the character contemplated by law under which the entry is made, but is expressly represented by the entryman to be of such character, and the lands of the entries procured by such representation, the entry in such cases is wrongfully procured and not 'erroneously allowed' within the meaning of the repayment law."

Geo. A. Stone, overruling the case of E. C. Mason, 22 L. D., 337; 25 L. D., 111.

"The right of repayment will be recognized in case of a desert land entry 'erroneously allowed' for land on both sides of a meandering stream, which was not the class which should have been meandered and which renders the tracts embraced within the entry uncontinuous, notwithstanding the entry was canceled for a different reason."

Abram Cole, 31 L. D., 311.

"The right to the repayment of the purchase money paid on desert land entry will be recognized where the entry as allowed is in form prima facie incompact, and it does not appear from the record that it was in as nearly compact form 'as its situation to the land and the situation of other lands will admit of' and was for reason erroneously allowed and could not have been confirmed."

Julia B. Keeler, 31 L. D., 354.

Section 2357, of the Revised Statutes, considered, right of repayment announced. Wm. W. Brandt, 31 L. D., 277.

A relinquishment filed with an application for repayment, in compliance with the terms of the repayment statute, should be treated as part of such application and accepted only in event of approval of the repayment claim. The Act of March 26th, 1908, does not repeal or modify existing laws covering repayments, nor does it authorize or contemplate opening of case under prior laws.

Peter A. Hausman, 37 L. D., 352.

"The term 'erroneously allowed' under the Act of June 16th, 1880, authorizes repayments in cases where entries have been erroneously allowed and cannot be confirmed, has reference solely to erroneous action on part of Government and furnishes no authority for repayment where by reason of mistake in description a timber and stone entry is made for land not intended to be entered.

Marie Steinberg, 37 L. D., 234.

Concerning subject of repayment consult the following cases:

Joseph Gibson, 37 L. D., 338.

James Febes, 37 L. D., 210.

Chas. C. Van Warmer, 37 L. D., 714.

35 L. D., 492.

David K. Emmons, 35 L. D., 599.

J. C. Murphy's Administrator et al., 35 L. D., 152.

Eugene Despin, 35 L. D., 580.

Wm. F. Brown, 35 L. D., 177.

36 L. D., 388.

Golden Empire Mining Co., 36 L. D., 561.

John W. Blee, 36 L. D., 265.
 Harry M. Love, 36 L. D., 266.
 John H. Wolff, 36 L. D., 428.
 Monroe Morrow, 36 L. D., 155.
 Union Pacific Railroad Co. et al., 38 L. D., 262.
 D. B. Bowersox, 38 L. D., 213.
 Walter Hollenstein, 38 L. D., 319.
 Peter N. Hanson, 38 L. D., 169.
 Chas. M. L. Daley, 39 L. D., 90.
 Instructions, 39 L. D., 141.
 Otto Westfal, 39 L. D., 752.
 Frank G. Bell, 39 L. D., 191.
 Calara F. Moran, 39 L. D., 434.
 Hulda Rosling, 39 L. D., 477.
 Mary Ward, 39 L. D., 495.
 Instructions, timber and stone, 39 L. D., 573.

RELINQUISHMENTS.

See Married Women page 266.

See Deserted Wife page 266.

Circular of January 25, 1904, p. 82, contains the following regulation concerning relinquishment.

The first section of the Act of May 14, 1880, provides:

(1) "That when a preemption, homestead, or timber culture claimant shall file a written relinquishment of his claim in the 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. * * *

(2) "Relinquishments run to the United States alone, and no person obtains any right to the land by mere purchase of a relinquishment of filing or entry."

Entries and filings made for the purpose of holding the land for speculation and the sale of relinquishments are illegal and fraudulent, and every effort in the power of the Government will be exerted to prevent such frauds and to detect and punish the perpetrators."

(3) "Purchasers of relinquishment of fraudulent filings or entries should understand that they purchase at their own risk, so far as the United States is concerned, and must seek their own remedies under local laws against those who, by imposing such relinquishments upon them, have obtained their money without valuable consideration."

"The first section of the Act of May 14, 1880, provides that when a preemption, homestead or timber culture claimant shall file a written relinquishment of his claim in the 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.

The Register will note on each relinquishment, over his signature, the day and hour of its receipt, and will write the words 'cancelled by relinquishment' (giving date) opposite the record of the entry in the tract book, the register of entries, and the register of receipts, and will draw a line over the number of the entry on the township plat.

On Monday of each week the Register and Receiver are directed to transmit to this office all the relinquishments accepted by them

the preceding week, classifying the same in their letter of transmittal by class of entry so transmitted.

Relinquishments run to the United States alone, and no person obtains any right to the land by the mere purchase of a relinquishment of filing or entry.

Entries and filings made for the purpose of holding the land for speculation and the sale of relinquishments are illegal and fraudulent, and every effort in the power of the Government will be exerted to prevent such frauds and to detect and punish the perpetrators.

Purchasers of relinquishments of fraudulent filings or entries should understand that they purchase at their own risk, so far as the United States is concerned, and must seek their own remedies under local law against those who, by imposing such relinquishments upon them, have obtained their money without valuable consideration."

RELINQUISHMENTS—CONTESTANT'S PREFERENCE— HOMESTEAD SETTLEMENTS.

An Act for the relief of settlers on public lands.

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.

Sec. 2. In all cases where any person has contested, paid the land office fees, and procured the cancellation of any preemption, homestead, or timber-culture entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: Provided, That said register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant, and not to be reported.

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 rights 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).

(4) These relinquishments are of no force or effect until filed with the Land Office for the district in which the land is situated. When received at the Land Office the day and hour received will be noted over the signature of the officer receiving the same, and proper notations will be made upon the serial register, tract book and plats and other records. These papers are transmitted to the General Land Office with the register's return at the end of the month in which they are received. A schedule of such relinquishments is kept on file in the local land office. (See circular of June 10, 1908, L. D.)

(5) Relinquishments of entries can not defeat the preference right of contestants.

Contests are presumed to induce relinquishments. This presumption is always followed and the burden is on the applicant presenting the relinquishment of a contested entry to show that as a matter of fact the relinquishment was not induced by the contest. (See Circular, —, page —.)

(6) An entryman who relinquishes his entry exhausts his right to make another unless he can bring himself within the provisions of the law allowing second homestead entries, or presents such state of facts as will justify the exercise of the equitable powers of the Department in allowing second notice.

For information on this subject consult Title "Second Homestead Entries."

A relinquishment of a non-contested entry presented with new application gives the applicant the first right to file on the land.

(7) A relinquishment of a non-contested entry of land in the possession of another at the time of filing of relinquishment can not defeat the right of the party in possession.

(8) "The right of a settler who is residing upon land covered by the entry of another attaches eo instanti on the relinquishment and cancellation of such entry, and is superior to that of a homesteader who makes entry of the land immediately after its relinquishment." (Stone v. Cowles, 13 L. D., 192.)

(9) A timber culture entryman who files a relinquishment and thereupon applies to another the land under the homestead law, can not thereby defeat the right of a settler who is residing upon said land at the date of the relinquishment. (13 L. D., 148.)

(10) "Takes effect immediately on filing notwithstanding a pending contest and opens the land to the entry of the first legal applicant, which is subject, however, to the preferred right of the contestant." (11 L. D., 266, 283, 313-619.)

(11) "The right of a settler who is on land embraced within the entry of another attaches at once on the relinquishment of said entry, and defeats an application to another filed by a third party immediately after said relinquishment."

Neil v. Southard, 16 L. D., 386; Zaspell v. Nolan, 13 L. D., 148; Fosgate v. Bell, 14 L. D., 439; McGowan v. McCann, 15 L. D., 542.

"A settler on land covered by the entry of another acquires a legal status, as against the Government the instant such entry is relinquished, and the right thus acquired is not defeated by the entry of a third party immediately following said relinquishment." (McCann, 15 L. D., 542.)

(12) "A settler on land covered by the entry of another acquires a legal status, as against the Government the instant such entry is relinquished, and the right thus acquired is not defeated by the entry of a third party immediately following said relinquishment." (McCann, 15 L. D., 542.)

(13) Under the above rulings a person in possession of land at the time of the relinquishment has the right of entry on the ground of prior possession, and his remedy is by contest on that ground, or by applying for an order directing the entryman to show cause why his entry should not be canceled, on the ground that the applicant is a prior settler.

On February 13, 1912, Commissioner of the General Land Office issued Circular No. 81, covering additional relinquishments:

(a) Conditional Relinquishments.

* * * By direction of the Secretary of the Interior, you are advised that the practice now prevailing in some local offices of allowing the filing of a conditional relinquishment of an entry or claim subject to the allowance of an accompanying application for the land involved, must be discontinued.

Accordingly you are advised of such practice that hereafter (except as noted below) the filing of a relinquishment of an entry or claim will be treated as absolute, and cancellation thereof at once noted of record, and the tract embraced therein will be subject to disposition under existing laws. The only exceptions to this rule are relinquishments of approved rights of way, conditioned upon the approval of a subsequent application, filed as an amendment to the approved right of way, or as an independent application, but in whole or in part with the approved right of way. Such relinquishments should not be noted until you are advised of their acceptance by this office. Many applications for improvements of entries are accompanied by relinquishments of the tracts sought to be excluded. This is not necessary, and you should advise such applicants that if the relinquishment is filed it is your duty to at once make the same of record."

(14) An entryman may relinquish at pleasure any legal subdivision of his entry, if no transfer thereof has been made, and such relinquishment will take effect immediately upon its filing." (Strader v. Goodhue, 31 L. D., 137.)

(15) If an entry is relinquished pending attack by several parties alleging priority of settlement, the question of priority shall be determined before allowing either of the parties contestant to make entry of the land involved." (Cagle v. Mendenhall, 26 L. D., 177.)

(16) "A contract to sell the relinquishment of a homestead entry is not in violation of the oath required of the homestead applicant by Section 2290 of the

Revised Statutes as amended by the Act of March 3, 1891, and is no ground for cancellation of the entry if good faith on the part of the entryman at the time of making his entry is apparent." (*Stubendorft v. Carpenter*, 32 L. D., 139.)

(17) Relinquishment of entries run only to the United States, and when filed for any purpose operate to clear the record of the entries to which they relate and should generally be treated as a part of the records of the Land Department." (*Judson Reno*, 35 L. D., 254.)

(18) "No such rights are required by an application to intervention in proceedings instituted by the Government against a final entry as will prevent the acceptance of a relinquishment of the entry and the allowance of another application for the same land." (36 L. D., 440.)

(19) "A relinquishment of an entry procured through misrepresentation is invalid." (*Kunz v. Jochim*, 37 L. D., 169.)

(20) "The filing of an unconditional relinquishment operates *eo instanti* to terminate the entry, which is thereafter no obstacle to the making of a second entry by the entryman notwithstanding it may remain uncanceled of record." (37 L. D., 282.)

(21) "A relinquishment of a part of a homestead entry, which would render the remaining tracts noncontiguous, should not be accepted.

Where, however, such a relinquishment was accepted, and the entryman upon the faith of such action complies with the law and submits proof with respect to the remaining noncontiguous tracts, the entry may be submitted to the board of equitable adjudication with a view to confirmation." (*Geo. H. Plowman*, 38 L. D., 412.)

(22) "A homestead entry by one who purchased the improvements and relinquishment of a prior entryman will not be canceled to reinstate the former entry in the absence of fraud or bad faith merely because the relinquishment of the former entry was filed after the entryman's death.

As between the parties a sale of improvements and relinquishment of an entry is a valid contract and though it conveys no right as against the United States, it is obligatory on the entryman and his heirs, and the equity of the purchase to make entry may properly be recognized if exercised promptly and prior to the intervention of any adverse right."

(*Wilson v. Holmes et al.*, 38 L. D., 475.)

(23) Entry not to be canceled until rights of mortgagee have been determined. (*Henry Gimble et al.*, 38 L. D., 198.)

(24) The relinquishment of homestead entry in good faith to avoid controversy with an adverse claim believed, or reasonably apprehended to be superior, would not defeat the right of the party to make a second entry under the Act of February 3, 1911. (*Patry v. Rowe*, 39 L. D., 219.)

(For further information on this subject see Title Re-payment Mortgage, Possession of Lands.)

[In reply please refer to Circular No. 141.]

INSTRUCTIONS AS TO RELINQUISHMENTS BY INDIANS.

Department of the Interior,
General Land Office,
Washington, July 15, 1912.

Registers and Receivers,
United States Land Offices.

Sirs: The Commissioner of Indian Affairs in his letter of July 1, 1912, requests that the local officers be instructed to require Indians, in the execution of relinquishments, of allotment applications, or homestead entries under the Act of July 4, 1884, to make a statement on the back of the relinquishments submitted of the reasons governing them in making such relinquishments.

The Commissioner of Indian Affairs states that this would, in many cases, eliminate the necessity of obtaining from the officials in the field a special report as to the propriety of accepting the relinquishment.

You will, therefore, in case of a relinquishment, filed by an Indian, of an allotment application, or of a homestead entry, under the Act of July 4, 1884, require the party to write at the foot of the regular form provided for relinquishments, or upon the back thereof, a clear statement of his reasons for desiring to make such relinquishment.

Very respectfully,

S. V. Proudfit,
Assistant Commissioner.

SALE AND DISPOSAL OF THE PUBLIC LANDS.

- Sec. 2353. Public sale of lands in half quarter-sections.
 Sec. 2354. Private sales, in what bodies.
 Sec. 2355. Private sales, proceedings in.
 Sec. 2356. No credit on sales of public lands.
 Sec. 2357. Price of lands \$1.25 per acre.
 Sec. 2358. Public lands may be offered for sale in such proportions as the President chooses.
 Sec. 2359. Advertisement of sales.
 Sec. 2360. Duration of sales.
 Sec. 2361. Several certificates issued to two or more purchasers of same section.
 Sec. 2362. Purchase-money refunded where sale cannot be confirmed.
 Sec. 2363. Refunding in certain cases, how done.
 Sec. 2364. Minimum price, how fixed when reservations sold.
 Sec. 2365. Highest bidder when preferred in private sales.
 Sec. 2366. What coins receivable in payment for public lands.
 Sec. 2367. Lands in California subject to private entry and withdrawn, how to be opened to entry.
 Sec. 2368. Certain lands located in good faith, by claims arising under treaty of September 30, 1854, may be purchased, etc.
 Sec. 2369. Mistakes in entry of land, provisions for.
 Sec. 2370. Mistakes in patent lands.
 Sec. 2371. Mistakes in location of warrants.
 Sec. 2372. Error in entry by mistake of numbers, proceedings upon.
 Sec. 2373. Agreement and acts intended to prevent bids, penalty.
 Sec. 2374. Agreements to pay premium to purchasers at public sales.
 Sec. 2375. Recovery of premiums paid to purchasers at public sales.
 Sec. 2376. Discovery of agreements to pay premiums by bill in equity.
 Sec. 2377. Limitation of entries by agricultural-college scrip.
 Sec. 2378. Grant to new States.
 Sec. 2379. Selections and locations of lands granted in last section.

Sec. 2353. All the public lands, the sale of which is authorized by law, shall, when offered at public sale to the highest bidder, be offered in half quarter-sections.

24 April, 1820, c. 51, s. l. v. 3, p. 566; U. S. v. Gratiot, 14 Pet., 526; *Oliver v. Piatt*, 3 How., 333; *Brown's Lessee v. Clements*, 3 How., 650; *Gazzam v. Phillips*, 20 How., 372; *Eldred v. Septon*, 19 Wall., 189.

Sec. 2354. All the public lands, when offered at private sale, may be purchased, at the option of the purchaser, in entire sections, half-sections, quarter-sections, half quarter-sections, or quarter quarter-sections.

Sec. 2355. Every person making application at any of the land offices of the United States for the purchase at private sale of a tract of land shall produce to the register a memorandum in writing, describing the tract, which he shall enter by the proper number of the section, half-section, quarter-section, half quarter-section, or quarter quarter-section, as the case may be, and of the township and range, subscribing his name thereto, which memorandum the register shall file and preserve in his office.

Sec. 2356. Credit shall not be allowed for the purchase-money on the sale of any of the public lands, but every purchaser of lands sold at public sale shall, on the day of purchase, make complete payment therefor; and the purchaser at private sale shall produce to the register of the land office a receipt from the Treasurer of the United States, or from the receiver of public moneys of the district, for the amount of the purchase-money on any tract, before he enters the same at the land office; and if any person, being the highest bidder at public sale for a tract of land, fails to make payment therefor on the day on which the same was purchased, the tract shall be again offered at public sale on the next day of sale, and such person shall not be capable of becoming the purchaser of that or any other tract offered at such public sales.

Sec. 2357. The price at which the public lands are offered for sale shall be one dollar and twenty-five cents an acre; and at every public sale, the highest bidder, who makes payment as provided in the preceding section, shall be the purchaser; but no land shall be sold, either at public or private sale, for a less price than one dollar and twenty-five cents an acre; and all the public lands which are hereafter offered at public sale, according to law, and remain unsold at the close of such public sales, shall be subject to be sold at private sale,

by entry at the land office, at one dollar and twenty-five cents an acre, to be paid at the time of making such entry: Provided, That the price to be paid for alternate reserved lands, along the line of railroads within the limit granted by any Act of Congress, shall be two dollars and fifty cents per acre.

Sec. 2358. Whenever the President is authorized to cause the public lands, in any land-district, to be offered for sale, he may offer for sale, at first, only a part of the lands contained in such district, and at any subsequent time or times, he may offer for sale in the same manner any other part, or the remainder of the lands contained in the same.

Sec. 2359. The public lands which are exposed to public sale by order of the President shall be advertised for a period of not less than three nor more than six months prior to the day of sale, unless otherwise specially provided.

Sec. 2360. The public sales of lands shall, respectively, be kept open for two weeks, and no longer, unless otherwise specially provided by law.

Sec. 2361. Where two or more persons have become purchasers of a section or fractional section, the Register of the land office of the district in which the lands lie shall, on application of the parties, and a surrender of the original certificate, issue separate certificates, of the same date with the original, to each of the purchasers, or their assignees, in conformity with the division agreed on by them; but in no case shall the fractions so purchased be divided by other than north and south, or east and west, lines; nor shall any certificate issue for less than eighty acres.

Sec. 2362. The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.

Sec. 2363. Where any tract of land has been erroneously sold, as described in the preceding section, and the money which was paid for the same has been invested in any stocks held in trust, or has been paid into the Treasury to the credit of any trust-fund, it is lawful, by the sale of such portion of the stocks as may be necessary for the purpose, or out of such trust-fund, to repay the purchase money to the parties entitled thereto.

Sec. 2364. Whenever any reservation of public lands is brought into market, the Commissioner of the General Land Office shall fix a minimum price, not less than one dollar and twenty-five cents per acre, below which such lands shall not be disposed of.

Sec. 2365. Where two or more persons apply for the purchase, at private sale, of the same tract, at the same time, the Register shall determine the preference, by forthwith offering the tract to the highest bidder.

Sec. 2366. The gold coins of Great Britain and other foreign coins shall be received in all payments on account of public lands, at the value estimated annually by the Director of the Mint, and proclaimed by the Secretary of the Treasury, in accordance with the provisions of section thirty-five hundred and sixty-four, title, "The Coinage."

Sec. 2367. Wherever lands in California subject to private entry have been or are hereafter withdrawn from market for any cause, such lands shall not thereafter be held subject to private entry until they have first been open for at least ninety days to homestead and pre-emption settlers, and again offered at public sale.

Sec. 2368. The Secretary of the Interior is authorized to permit the purchase, with cash or military bounty-land warrants, of such lands as may have been located with claims arising under the seventh clause of the second article of the treaty of September thirty, eighteen hundred and fifty-four, at such price as he deems equitable and proper, but not at a less price than one dollar and twenty-five cents per acre, and the owners and holders of such claims in good faith are also permitted to complete their entries, and to perfect their titles under such claims upon compliance with the terms above mentioned; but it must be shown to the satisfaction of the Secretary of the Interior that such claims are held by innocent parties in good faith, and that the locations made under such claims have been made in good faith and by innocent holders of the same.

Sec. 2369. In every case of a purchaser of public lands, at private sale, having entered at the land office, a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he

shall make his application for that purpose to the Register of the land office; and if it appears from testimony satisfactory to the Register and Receiver, that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land office, the Register and Receiver shall report the case, with the testimony and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the moneys which have been paid shall be applied in the purchase of other lands in the same district, or credited in the payment of other lands which have been purchased at the same office.

Sec. 2370. The provisions of the preceding section are declared to extend to all cases where patents have issued or may hereafter issue; upon condition, however, that the party concerned surrenders his patent to the Commissioner of the General Land Office, with a relinquishment of title thereon, executed in a form to be prescribed by the Secretary of the Interior.

Sec. 2371. The provisions of the two preceding sections are made applicable in all respects to errors in the location of land warrants.

Sec. 2372. In all cases of an entry hereafter made, of a tract of land not intended to be entered, by a mistake of the true numbers of the tract intended to be entered, where the tract, thus erroneously entered, does not in quantity exceed one-half section, and where the certificate of the original purchaser has not been assigned, or his right in any way transferred, the purchaser, or, in case of his death, the legal representatives, not being assignees or transferees, may, in any case coming within the provisions of this section, file his own affidavit, with such additional evidence as can be procured, showing the mistake of the numbers of the tract intended to be entered, and that every reasonable precaution and exertion had been used to avoid the error, with the Register and Receiver of the land district within which such tract of land is situated, who shall transmit the evidence submitted to them in each case, together with their written opinion, both as to the existence of the mistake and the credibility of each person testifying thereto, to the Commissioner of the General Land Office, who, if he be entirely satisfied that the mistake has been made, and that every reasonable precaution and exertion had been made to avoid it, is authorized to change the entry, and transfer the payment from the tract erroneously entered, to that intended to be entered, if unsold; but if sold, to any other tract liable to entry; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize any such change of entry; nor shall anything herein contained affect the right of third persons.

Sec. 2373. Every person, who, before or at the time of the public sale of any of the lands of the United States, bargains, contracts, or agrees, or attempts to bargain, contract, or agree, with any other person, that the last named person shall not bid upon or purchase the land so offered for sale, or any parcel thereof, or who, by intimidation, combination, or unfair management, hinders, or prevents, or attempts to hinder or prevent, any person from bidding upon or purchasing any tract of land so offered for sale, shall be fined not more than one thousand dollars, or imprisoned not more than two years, or both.

Sec. 2374. If any person before, or at the time of the public sale of any of the lands of the United States, enters into any contract, bargain, agreement, or secret understanding with any other person, proposing to purchase such land, to pay or to give to such purchasers for such land a sum of money or other article of property, over and above the price at which the land is bid off by such purchasers, every such contract, bargain, agreement, or secret understanding, and every bond, obligation, or writing of any kind whatsoever, founded upon or growing out of the same, shall be utterly null and void.

Sec. 2375. Every person being a party to such contract, bargain, agreement, or secret understanding, who pays to such purchaser any sum of money or any other article of value, over and above the purchase money of such land, may sue for and recover such excess from such purchaser in any court having jurisdiction of the same.

Sec. 2376. If the party aggrieved have no legal evidence of such contract, bargain, agreement, or secret understanding, or of the payment of the excess, he may, by bill in equity, compel such purchaser to make discovery thereof; and if in such case the complainant shall ask for relief, the court in which

the bill is pending may proceed to final decree between the parties to the same; but every such suit either in law or equity shall be commenced within six years next after the sale of such land by the United States.

Sec. 2377. In no case shall more than three sections of public lands be entered at private entry in any one township by scrip issued to any State under the Act approved July two, eighteen hundred and sixty-two, for the establishment of an agricultural college therein.

Sec. 2378. There is granted, for purposes of internal improvement, to each new State, hereafter admitted into the Union, upon such admission, so much public land as, including the quantity that was granted to such State before its admission and while under a territorial government, will make five hundred thousand acres.

Sec. 2379. The selections of lands, granted in the preceding section, shall be made within the limits of each State so admitted into the Union, in such manner as the legislatures thereof, respectively, may direct; and such lands shall be located in parcels conformably to sectional divisions and subdivisions of not less than three hundred and twenty acres in any one location, on any public land not reserved from sale by law of Congress or by proclamation of the President. The locations may be made at any time after the public lands in any such new State have been surveyed according to law.

SUPERVISORY CONTROL.

Authority of Secretary.—The Secretary is bound to exercise “that just supervision which the law vests in him over all proceedings instituted to acquire portions of the public lands”: *Lee v. Johnson*, 116 U. S. 48; this supervisory power may be exercised of his own motion and in the absence of appeal; *Knight v. Land Assn.*, 142 U. S. 178; *Pueblo of San Francisco*, 5 L. D. 483; it is ordinarily to be exercised according to certain fixed rules; *Asher v. Holmes*, 8 L. D. 396; and is properly involved by application for certiorari; *H. C. Putnam*, 5 L. D. 22; it is properly exercised to prevent substantial injustice; *Dickson v. Schlater*, 2 L. D. 597; *Oscar T. Roberts*, 8 L. D. 423; as in case of relinquishment by an entryman to defraud his transferee; *William v. U. S.*, 138 U. S. 514; it extends to a waiver of all irregularities in the proceedings and consideration of the case on its merits; *C. W. Filkins*, 5 L. D. 49, to order a hearing out of time; *Alice Placer*, 4 L. D. 314; *Sweeney v. Wilson*, 10 L. D. 157; *Devereux v. Hunter*, 11 L. D. 214; *Tam v. Story*, 16 L. D. 282; to overlook delay or irregularity in filing a motion for review; *R. R. v. Bass*, 14 L. D. 443; to reopen a case that has been closed by failure to appear; *Pikes Peak Lode*, 14 L. D. 47; *Purcell v. R. R.*, 14 L. D. 574; and to dispense with the requirements of the rules of practice; see *Power to Waive Rules*. See case, *Cogle v.*, 26 L. D. 177.

Authority of Commissioner.—“The Commissioner of the General Land Office exercise a general superintendence over the subordinate officers of his department, and is clothed with liberal powers of control, to be exercised for the purpose of justice and to prevent the consequences of inadvertence, irregularity, mistake and fraud in the important and extensive operations of that officer;” so he may accept surrender of a patent and issue a new one to correct an error: *Bell v. Hearne*, 19 How. 252; the Commissioner’s power and duty of supervision are emphasized in *Barnard v. Ashley*, 18 How. 43; *Stephen Sweayze*, 5 L. D. 570; *Dippert v. Berger*, 13 L. D. 496; *Cogle v. Mendenhall*, 26 L. D. 177.

An inherent supervisory power, independent of the Rules of Practice, is claimed by the Commissioner (*McFarland in Willardson v. Dusterberg*, 1 L. D. 455); and the Commissioner has power to waive the requirements of any of the Rules of Practice. (See *Waiver by Commissioner*.)

Force of Departmental Regulations.—All officers administering the public lands are bound by the regulations of the Department; *Harkness v. Underhill*, 1 Black 325; the Rules of Practice have the force of a statute; *Parker v. Castle*, 4 L. D. 84; *Stevens v. Robinson*, 5 L. D. 111; *Farrier v. Falk*, 13 L. D. 546; *Witt v. Henley*, 12 L. D. 198; so of Circulars; *Hyde v. Warren*, 14 L. D. 575; a Departmental regulation not contrary to law has the force of law and will justify cancellation of entries made or prosecuted in violation of it; *Rogers v. Lukens*, 6 L. D. 111; *Hessong v. Burgan*, 9 L. D. 353; and a decision construing a rule has the effect of law; *Waterhouse v. Scott*, 13 L. D. 718; and all persons are bound to take notice of Departmental rulings; *Hoover v. Lawton*, 13 L. D. 635.

A Department regulation requiring a record to be kept makes such record

evidence of its contents; as a record of registered letters; *Gurney v. Howe*, 9 Gray 404; and the records of the Signal Service; *De Armond v. Neasmith*, 32 Mich. 231; *Evanston v. Gunn*, 99 U. S. 660.

But a Departmental regulation may be void, though not contrary to any express provision of law; *Quinn v. Chapman*, 111 U. S. 445.

Force of Departmental Usage.—In addition to formal regulations and decisions, “usages have been established in every department of the Government, which have become a kind of common law, and regulate the rights and duties of those who act within their respective limits”: *U. S. v. McDaniel*, 7 Peters 1; *Instructions*, 13 L. D. 9.

Effect of Local Law.—The provisions of local statutory law cannot vary the practice in the land office; *Dewey v. Christie*, 4 L. D. 346, but may regulate matters not provided for by Departmental Rules; *Hagan v. Gulbranson*, 10 L. D. 238, and cases cited.

Power to Waive the Rules.—Every court has inherent power to suspend its rules to prevent injustice; *Yturbide v. U. S.*, 22 How. 290; *Poultney v. LaFayette*, 12 Peters 472; and the Rules of Practice will not be allowed to hinder the just disposal of the public land; *Ayers v. Buell*, 2 L. D. 257; and will be waived in the interest of substantial justice; *Pierce v. McDougal*, 11 L. D. 183, and cases cited.

But the rules are waived only where good reason is shown therefor; *Vesivius Lode*, 11 L. D. 101; to prevent grievous wrong or to correct palpable mistakes; *Oregon*, 9 L. D. 360; and not unless the necessity is urgent and no other rights are to be prejudiced; *Wm. E. Dargie*, 13 L. D. 227; *Stevens v. Robinson*, 5 L. D. 111; an application for relaxation of the rules should be full and definite and supported by affidavit; *Witt v. Henley*, 12 L. D. 198.

While the Department may overlook violations of its own regulations, it cannot dispense with laws: *Doten v. Derevan*, 3 L. D. 254.

Waiver by Commissioner.—The Commissioner has power to dispense with any regulation established by himself: *Lytle v. Arkansas*, 9 How. 314; he may also waive any of the Rules of Practice; *Jolly Cobbler Lode*, 3 L. D. 321; and his discretion will not be overruled unless prejudice appears; *Bennett v. Cravens*, 12 L. D. 647; he is particularly authorized to grant extension of time for filing appeals and motions for review; *Ojo del Espiritu Santo*, 3 L. D. 59; *Haffey v. States*, 14 L. D. 423; *Wagon Rd. Co. v. Hart*, 17 L. D. 480; *Holloway v. Lewis*, 13 L. D. 265, and cases cited.

SALINE LANDS RESERVED AND SOLD UNDER GENERAL LAWS.

The circular of the General Land Office of January 25, 1904, contained the following regulations, and instructions:

“Congress passed an Act January 12, 1877 (19 Stat., 221), for the sale of saline or salt-spring lands in certain States. This Act has exclusive reference to that class of lands which at an early period were segregated from the public lands on account of salt springs and reserved from disposal under general laws, and which, therefore, to use the language of the statute, were ‘incapable of being purchased under any of the laws of the United States relative to the public domain.’ (See decision of the Supreme Court of the United States in the case of *Morton v. Nebraska*, 21 Wallace, 660.) These lands never were subject to the operation of the homestead and preemption laws, nor of any other law for the disposal of the public lands, except the Act of January 12, 1877, above referred to. That Act provides for the disposal of such lands in a certain contingent at private sale, and, being special in character and of particular application, is not repealed or modified by the general provisions of the Act of March 2, 1889, ‘to withdraw certain public lands from private entry’ (25 Stat. L., 854, 32; second paragraph circular of March 8, 1889, 8 L. D., 314).”

Determination of the Character of the Lands.

Should prima facie evidence that certain tracts are saline in character be filed with the Register and Receiver of the proper land district, they will designate a time for a hearing at their office and give notice to all parties in interest, in order that they may have ample opportunity to be present with their witnesses. Such witnesses will be examined in regard to the saline character of the given tracts and whether the same are claimed by any person; if so, the names of the claimants and the extent of their improvements must be shown.

The witnesses should be thoroughly examined as to the true character of the land in other respects—its agricultural capacities; what kind of crops, if any, have been raised thereon or can be raised from land of such character; whether it contains any valuable deposit of mineral of any kind or of coal. In short, the testimony should be as complete as possible, and in addition to the points indicated above everything of importance bearing upon the character of the land should be elicited at the hearing.

The testimony taken at the hearing will be transmitted to the General Land Office by the Register and Receiver, with their opinion thereon. When the case comes before the General Land Office such a decision will be rendered in regard to the character of the land as the facts may warrant.

Should the tracts be adjudged saline lands, the Register and Receiver will be instructed to offer the same for sale, after public notice, at the local land office of the district in which the same shall be situated, and to sell said tract or tracts to the highest bidder for cash at a price not less than \$1.25 per acre.

In case said lands should not be sold when so offered, they will be subject to private sale for cash at a price not less than \$1.25 per acre, in the same manner as other public lands are sold at private sale.

Should the tract in question be adjudged agricultural or mineral, it will be subject to disposal as such.

The provisions of this Act do not apply to any lands within the Territories, nor to any within the States of Mississippi, Louisiana, Florida, California, or Nevada, none of which has had a grant of salines by Act of Congress; nor do they apply to the States of Idaho, North Dakota, South Dakota, Montana, Washington, or Wyoming, none of which has had an express grant of saline lands, although each has had a grant declared to be in lieu of saline and other special grants.

Attention is called to the Act of January 31, 1901 (31 Stat. L., 745), which reads as follows:

That all unoccupied public lands of the United States containing salt springs or deposits of salt in any form, and chiefly valuable therefor, are hereby declared to be subject to location and purchase under the provisions of the law relating to placer mining claims: Provided, That such persons shall not locate or enter more than one claim hereunder.

Since the date of said Act, persons making applications to enter or locate public lands under the homestead or other laws providing for the disposal of lands not mineral in character in States and Territories excluded by statute from the operation of the general mining laws are required to furnish an affidavit (Form 4-062a) showing that the land applied for contains no salt springs or deposits of salt in any form sufficient to render it chiefly valuable therefor. (See circular of November 14, 1901; 31 L. D., 131.)

The regular non-mineral affidavit (Form 4-062) has been modified to cover the provisions of the Act above referred to, for use in those States where a non-mineral affidavit is required.

For information relative to the location of this class of lands under the laws relating to placer mining, see circular of instructions under the mining laws.

An Act Providing for the Sale of Saline Lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall be made appear to the Register and Receiver of any land office of the United States that any lands within their district are saline in character, it shall be the duty of said Register and said Receiver, under the regulation of the General Land Office, to take testimony in reference to such lands to ascertain their true character, and to report the same to the General Land Office; and if, upon such testimony, the Commissioner of the General Land Office shall find that such lands are saline and incapable of being purchased under any of the laws of the United States relative to the public domain, then, and in such case, such lands shall be offered for sale by public auction at the local land office of the district in which the same shall be situated, under such regulations as shall be prescribed by the Commissioner of the General Land Office, and sold to the highest bidder for cash at a price not less than one dollar and twenty-five cents per acre; and in case said lands fail to sell when so offered, then the same shall be subject to private sale at such land office, for cash, at a price not less than one dollar and twenty-five cents per acre, in the same manner as other lands of the United States are sold: Provided, That th.

foregoing enactments shall not apply to any State or Territory which has not had a grant of salines by Act of Congress, nor to any State which may have had such a grant, until either the grant has been fully satisfied, or the right of selection thereunder has expired by efflux of time. But nothing in this Act shall authorize the sale or conveyance of any title other than such as the United States has, and the patents issued shall be in the form of a release and quitclaim of all title of the United States in such lands.

Sec. 2. That all executive proclamations relating to the sales of public lands shall be published in only one newspaper, the same to be situated, and to be designated by the Secretary of the Interior. Approved, January 12, 1877. (19 Stat., 221.)"

Digest of Decisions on Subject of Saline Lands.

"Until the passage of the Act of January 31, 1901, the policy of the Government was to reserve saline lands from disposal under any of the public land lands, whether relating to the deposition of agricultural lands or relating to the location or purchase of mineral lands, excepting as provided by the Act of January 12, 1877." (Territory of New Mexico, 21 L. D., 389.)

(For grant made by section 1 of the Act of June 21, 1908, to Territory of New Mexico, and character of lands passing thereunder, see case Territory of New Mexico, 31 L. D., 389.)

"The grant to the Territory of New Mexico, for the benefit of its University, by section 3 of the Act of June 21, 1898, of 'All Saline Lands in said Territory,' includes only such lands as contain common salt (sodium chloride) in its various forms of existence or deposit, and in commercially valuable quantities." (Territory of New Mexico, 35 L. D., p. 1.)

Salt Springs.

It is only with respect to the actual production of salt by the usual process that saline springs and deposits may be regarded as within the purview of the mining laws, and the installation upon a mining claim containing saline springs or bathhouses and appurtenances for the use of the water for bathing purposes, nor in no respect could future improvements beyond those utilized, can be regarded in any respect as mining improvements.

35 L. D., 426.

(See citations of decisions under section of Revised Statutes and Acts of Congress cited and construed.)

SCRIP LOCATIONS.

1. Character of scrip.
2. Soldiers' additional homestead rights.
3. Form of assignment.
4. Circular relating to location, etc.
5. Regulations concerning location on unsurveyed land.
6. Private land indemnity scrip.
7. Bounty land warrants, etc.

See Soldiers' and Sailors' Homestead Rights.

1. There are a great many kinds of scrip, among which may be mentioned soldiers' and sailors' additional rights, forest reserve and Santa Fe, Washburn, Ewing, Alabama, Florida, Louisiana, Missouri, Sioux half breed, Valentine, Girard, Northern Pacific and others, not to mention land warrants. Space forbids extended presentation of the law and regulations concerning all of these scrips.

"It was formerly the practice, on proof of military service and original entry under section 2306, Revised Statutes, to issue a certificate in the name of the soldier-entryman, showing his additional right and its area, but the practice was discontinued by circular of February 13, 1883 (1 L. D., 654), and it is held that there is no statutory authority for the same and that the soldier may obtain the right for himself or sell it to another without certification (23 L. D., 152)."

By the Act of March 3, 1893 (27 Stat. L., 593), provision is made that where soldiers' additional homestead entries have been made or initiated upon a certificate of the Commissioner of the General Land Office of the right to make such entry, and the certificate of right is found to be erroneous or invalid for any cause, the party in interest thereunder on making proof of

his purchase, may, if there is no adverse claimant, perfect his title by payment of the Government price for the land, but no person may acquire more than 160 acres through the location of any such certificate.

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

“That section one of an Act entitled ‘An Act to repeal timber-culture laws, and for other purposes,’ approved March third, eighteen hundred and ninety-one, be, and hereby is, amended by adding the following words to the fourth provision thereof: * * * And provided further, That where soldiers’ additional homestead entries have been made or initiated upon certificate of the Commissioner of the General Land Office of the right to make such entry, and there is no adverse claimant, and such certificate is found erroneous or invalid for any cause, the purchaser thereunder, on making proof of such purchase, may perfect his title by payment of the Government price for the land; but no person shall be permitted to acquire more than one hundred and sixty acres of public land through the location of any such certificate.”

Approved March 3, 1893 (27 Stat., 593).

“By the Act of August 18, 1894 (28 Stat. L., 397), all certificates regularly issued are declared to be valid, notwithstanding any attempted sale or transfer, and holders thereof desiring to exercise a right of entry in their own names must file such certificates in the General Land Office, together with satisfactory proof of ownership and of bona fide purchase for value. If, upon examination, the proof so filed is satisfactory, an additional certificate will be attached to the original authorizing the location thereof, or entry of land therewith, in the name of the assignee or his assigns. (Circular of October 16, 1894; 19 L. D., 302.)”

An Act making appropriation for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes.

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

“That all soldiers’ additional homestead certificates heretofore issued under the rules and regulations of the General Land Office under section twenty-three hundred and six of the Revised Statutes, or in pursuance of the decisions or instructions of the Secretary of the Interior, of date March tenth, eighteen hundred and seventy-seven, or any subsequent decisions or instructions of the Secretary of the Interior or the Commissioner of the General Land Office, shall be, and are hereby, declared to be valid, notwithstanding any attempted sale or transfer thereof; and where such certificates have been or may hereafter be sold or transferred, such sale or transfer shall not be regarded as invalidating the right, but the same shall be good and valid in the hands of bona fide purchasers for value; and all entries heretofore or hereafter made with such certificates by such purchasers shall be approved, and patent shall issue in the name of the assignees.”

Approved August 18, 1894 (28 Stat., 397).

“To prevent confusion and provide a uniform rule for the transfer and assignment of soldiers’ additional rights, recertified to owners and bona fide purchasers under said Act of Congress of August 18, 1894, and official circular of October 16, 1894 (supra), the following mode of procedure should be observed:

1. The assignment may be written or printed upon a separate sheet or sheets of paper to be securely attached to the certificate.

2. Each assignment must be attested by two witnesses and duly acknowledged before some officer authorized to take acknowledgements of deeds in the county or district wherein the assignment is made, who shall certify that the assignor is well known to such officer, that he is the identical person to whom the soldier’s additional right was recertified, and who executes the assignment thereof.”

(See former page.)

This law does not prohibit the location of said certificates by the holders as heretofore, either by the soldiers in person or by others acting as attorneys for the soldiers and in the names of the soldiers. Therefore, when application is made to locate such a certificate by the holder in the name of the soldier

the entry of land under said certificate will be allowed if the application papers are regular in all other respects.

The instructions above given relative to certificates of right recertified under Act of August 18, 1894 (28 Stat. L., 397), apply with equal force as to the requisites of assignments of uncertified additional homestead rights, and the forms of assignment prescribed therein may be modified so that the same shall contain the substantial matter thereof.

All applications to locate certificates of additional homestead rights must describe a particular tract and be presented at the local land office having jurisdiction over the land desired to be entered, and must be accompanied by the usual nonmineral and nonsaline affidavits.

An assignee of an uncertified right desiring to make an additional entry under this section must present his application as the assignee of the soldier for a specific tract of land to the Register and Receiver of the local office in whose jurisdiction the land lies, accompanying the same by a complete assignment duly executed, attested, and acknowledged as prescribed respecting the assignment of bounty land warrants. The identity of the original assignor with the soldier and original entryman must be established by the affidavits of two witnesses, preferably by such as have personal knowledge of the facts, or, if such witnesses can not be procured, a satisfactory reason must be given, and other facts presented tending to establish such identity.

The applicant must furnish his affidavit of bona fide ownership at the date of the application, evidence of his citizenship, the usual nonsaline and non-mineral affidavits, and the affidavit of the soldier showing that he has in no other manner exercised his homestead right than by making the original entry, either by making an additional entry under said section or under any other Act.

Affidavits to establish the material facts necessary to the proof of the existence of the right in the applicant and the character of the lands sought to be entered may be executed before any officer authorized to administer oaths, and is not confined to the land district in which the land sought to be entered is situate, and the affidavit as to the character of the land sought to be entered may be made by any credible person having the requisite knowledge of the premises. (31 L. D., 320.)

A soldier desiring to make the additional entry in person must accompany his application with the evidence of his identity and of his unimpaired ownership.

An application to make an additional entry, not accompanied by a certificate of right from this office, must be forwarded by the local land office to this office for consideration and for instructions relative to allowing the entry. Proper notation should be made by the local officers on their records, showing the pendency of such application and the consequent segregation of the land. (See Appendix, circular letters of February 18, 1890, and December 4, 1896, pp. 238-239.)

The Register and Receiver will, after entry is authorized, require the party to pay the same fee and commissions as in cases of original entry; the Receiver will issue his receipt for the money paid, and these papers will receive the current date and the proper numbers in their homestead series. Then, to complete the transaction—it being an object, for the convenience of business, that the additional entry papers and the final papers therefor in such cases shall be kept separate and distinct—the party will make payment of the usual final commissions on the entered tract, for which the Receiver will issue his receipt; the Register will thereupon issue his final certificate for the additional tract (Form 4-197, p. 287), the receipt and certificate to bear their proper numbers in the final homestead series, likewise a reference to the original entry and to the final certificate thereon by their numbers, and also by their district, where the party's first entry shall have been made in a different district.

Note.—The foregoing is taken from circular of January 25, 1904.

Forms for Assignment of Soldier's Certificates Recertified to Owners and Purchasers Under Act of August 18, 1894.

ASSIGNMENT BY FIRST OWNER UNDER RECERTIFICATION.

For Value Received, I, of
in the, and, assignee of the original
beneficiary to whom the foregoing and attached certificate was, upon the

..... day of....., 19...., issued by the Commissioner of the General Land Office under section 2306 of the Revised Statutes of the United States, and the same....., to whom, as a bona fide purchaser and owner thereof such original certificate was, upon the..... day of....., recertified by the Commissioner of the General Land Office under the Act of Congress of August 18, 1894, and official circular of the General Land Office, dated October 16, 1894, do hereby sell and assign unto..... of..... in the..... and....., and to his heirs and assigns forever, the said certificate and the right of entry and location thereby secured, and authorize him to locate the said certificate and to enter lands therewith and to receive a patent for any land so located or entered.

.....(L. S.)

Attest

.....
.....
(Two witnesses)

ACKNOWLEDGMENT.

State of } ss.
County of..... }

On the..... day of..... 19...., before me personally came....., to me well known, and acknowledged the foregoing assignment to be his act and deed; and I certify that the said..... is the identical person to whom the within certificate was recertified upon the..... day of....., 19...., and who executed the foregoing assignment thereof. And I further certify that the said certificate, at the time of making the foregoing assignment, was attached to said assignment and was presented by and was in the possession of him, the said.....

ASSIGNMENT BY ASSIGNEE OF FIRST OWNER.

For Value Received, I,to whom the foregoing and attached certificate and right of entry and location thereby secured were assigned, do hereby sell and assign unto..... of....., in the.....and....., and to his heirs and assigns forever, the said certificate and right of entry and location, and authorize him to locate the said certificate and to enter lands therewith and to receive a patent for any lands so located or entered.

.....(L. S.)

Attest

.....
.....
(Two witnesses)

ACKNOWLEDGMENT.

State of } ss.
County of..... }

On the..... day of..... 19...., before me personally appeared....., to me well known, and acknowledged the foregoing assignment to be his act and deed; and I certify that the said..... is the identical person to whom the foregoing and attached certificate and right of entry and location thereby secured were on the..... day of..... 19...., heretofore assigned. And I further certify that the said certificate, at the time of making the foregoing assignment, was attached to said assignment, and was presented by and was in the possession of him, the said.....

Note—All subsequent assignment may follow substantially the above form.

LOCATION OF WARRANTS, SCRIP, CERTIFICATES, SOLDIERS' ADDITIONAL RIGHTS, ETC.

Circular.

Department of the Interior,
General Land Office,
Washington, D. C., February 21, 1908.

Registers and Receivers, United States Land Offices.

Gentlemen: In cases of applications to locate all scrips, warrants, certificates, soldiers' additional homestead rights, or to make lieu selections of public lands of the United States, the following requirements will govern on and after April 1, 1908:

1. The location or selection must be accompanied, in addition to the evidence required by existing rules and regulations, by the affidavit of the locator, selector, or some credible person possessed of the requisite personal knowledge of the premises, showing that the land located or selected is not in any manner occupied adversely to the locator or selector.

2. You will require the locator or selector, within twenty days from the filing of his location or selection, to begin publication of notice thereof, at his own expense, in a newspaper to be designated by the Register as of general circulation in the vicinity of the land, and to be the nearest thereto. Such publication must cover a period of thirty days, during which time a similar notice of the location or selection must be posted in the local land office and upon the lands included in the location or selection, and upon each and every noncontiguous tract thereof.

3. The notice must describe the land located or selected, give the date of location or selection, and state that the purpose thereof is to allow all persons claiming the land adversely, or desiring to show it to be mineral in character, an opportunity to file objection to such location or selection with the local officers for the land district in which the land is situate, and to establish their interest therein, or the mineral character thereof.

4. Proof of publication must consist of an affidavit of the publisher, or of the foreman or other proper employee of the newspaper in which the notice was published, with a copy of the published notice attached. Proof that the notice remained posted upon the land during the entire period of publication must be made by the locator or selector or some credible persons having personal knowledge of the fact. The Register will certify to the posting in his office. The first and last days of such publication and posting must in all cases be given.

Very respectfully,

R. A. Ballinger,
Commissioner.

Approved:

James Rudolph Garfield,
Secretary.

SCRIP-APPLICATION TO LOCATE UPON UNSURVEYED LAND.

Instructions.

Department of the Interior,
General Land Office,
Washington, D. C., December 22, 1908.

Registers and Receivers, United States Land Offices.

Gentlemen: Under regulations of June 17, 1874 (1 C. L. L., 806), relative to Valentine Scrip, and May 28, 1878 (2 C. L. L., 1355), relative to Sioux Half Breed Scrip, such scrip, and other kinds of scrip locatable on unsurveyed land, when located upon such land, have been retained with the location papers in local offices until the survey of the township embracing the land applied for has been made, the official plat filed, and the location adjusted to the survey.

It is deemed advisable to discontinue this practice. You are accordingly directed to transmit to this office, at once, all applications to locate scrip on unsurveyed land, together with the scrip, which were filed in your offices prior to April 1, 1908, with separate report in each case as to the status of the land applied for, and all other material facts affecting the case; also, with proper report, all applications and scrip for unsurveyed land, filed subsequent to April 1, 1908, after the applicant has complied with the regulations of February 21, 1908 (36 L. D., 278). In all cases you will see that your records show, in

complete manner, the pendency of the application to locate such scrip. The papers will be kept in this office.

When survey has been made of the land involved in any application, and the plat has been filed in your office, you will promptly call the attention of this office to such application, giving such information as the records of your office indicate should be furnished concerning the application.

The applicant will be required, within three months from the date of the filing of the official plat of survey of the township embracing the land applied for, to make proof, in the form of an affidavit, corroborated, showing the legal subdivisions of his claim; whereupon the location, in the absence of any valid objection, will be consummated, and the location certificate, and other papers, will be transmitted to this office with your monthly returns. Should the applicant fail to make the adjustment, you will report the fact to this office, when appropriate action will be taken.

Very respectfully,

Fred Dennett,
Commissioner.

Approved:

James Rudolph Garfield,
Secretary.

PRIVATE LAND CLAIM INDEMNITY SCRIP.

An Act defining the manner in which certain land scrip may be assigned and located, or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever, in cases prosecuted under the Acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first section of the Act of June tenth, eighteen hundred and seventy-two, providing for the adjustment of private land claims in the States of Florida, Louisiana, and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the Court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States subject to private entry at one dollar and twenty-five cents per acre, or to receive certificate of location for as much of the land the title to which has been established as has been disposed of by the United States; certificate of location shall be issued by the Commissioner of the General Land Office, attested by the seal of said office, to be located as provided for in the sixth section of the aforesaid Act of Congress of June twenty-second, eighteen hundred and sixty, or applied according to the provisions of the second section of this Act; and said certificate of location or scrip shall be subdivided according to the request of the confirmer or confirmeres, and as nearly as practicable in conformity with the legal divisions and subdivisions of the public lands of the United States, and shall be, and are hereby declared to be assignable by deed or instrument of writing, according to the form and pursuant to regulations prescribed by the Commissioner of the General Land Office, so as to vest the assignee with all the rights of the original owners of the scrip, including the right to locate the scrip in his own name.

Sec. 2. That such scrip shall be received from actual settlers only; in payment of preemption claims or in commutation of homestead claims in the same manner and to the same extent as is now authorized by law in the case of military-bounty land warrants.

Sec. 3. That the Register of the proper land office, upon any such certificate being located, shall issue, in the name of the party making the location, a certificate of entry, upon which, if it shall appear to the satisfaction of the Commissioner of the General Land Office that such certificate has been fairly obtained, according to the true intent and meaning of this Act, a patent shall issue, as in other cases, in the name of the locator or his legal representative.

Sec. 4. That the provisions of this Act respecting the assignment and patenting of scrip and its application to preemption and homestead claims shall apply to the indemnity certificates of location provided for by the Act of the second of June, eighteen hundred and fifty-eight, entitled "An Act to provide for the location of certain confirmed private land claims in the State of Missouri, and for other purposes."

Approved, January 28, 1879. (20 Stat., 274.)

**BOUNTY LAND WARRANTS—LAWS AND REGULATIONS—
ASSIGNMENT, LOCATION AND USE.**

The circular and regulation issued March 28, 1902 (31 L. D., page 277, were modified and republished under circular No. 120, dated May 24, 1912. Will probably be published in Vol. 40 or Vol. 41 of Land Decisions.

SOLDIERS' AND SAILORS' HOMESTEAD RIGHTS.

Department of the Interior,
General Land Office,
Washington, D. C., October 11, 1910.

Any officer, soldier, seaman, or marine, who served for not less than ninety days in the Army or Navy of the United States during the civil war and who was honorably discharged and has remained loyal to the Government, and who makes a homestead entry, is entitled under section 2305 of the Revised Statutes to have the term of his service in the Army or Navy, not exceeding four years, deducted from the period of five years' residence required under the homestead laws.

If the party was discharged from the service on account of wounds or disabilities incurred in the line of duty, the whole term of enlistment, not exceeding four years, is to be deducted from the homestead period of five years; but no patent can 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 commenced his improvements. (Sec. 2305, Rev. Stat.)

Similar provisions are made in the Acts of June 16, 1898 (30 Stat., 473), and March 1, 1901 (31 Stat., 847), for the benefit of like persons who served in the late war with Spain, or during the suppression of the insurrection in the Philippines.

No credit for military service can be allowed where commutation proof is submitted.

A party claiming the benefit of his military service must file with the Register and Receiver a certified copy of his certificate of discharge, showing when he enlisted, when he was discharged, and the organization in which he served, or the affidavit of two respectable, disinterested witnesses, corroborative of the allegations contained in his affidavit on these points, or if neither can be procured his own affidavit to that effect.

Periods of Service for Which Credit May Be Given in Lieu of Residence.

In determining the rights of parties under sections 2304-2309 of the Revised Statutes the civil war is held to have lasted from April 15, 1861, to August 20, 1866; the Spanish war and Philippine insurrection from April 21, 1898, to July 15, 1903.

No credit for military service can be given unless a soldier or sailor served for at least ninety days between the dates above mentioned.

In computing the period of service of a soldier "who has served in the Army of the United States," within the meaning of that phrase as used in section 2304 of the Revised Statutes, the entrance

of the soldier into the army will be considered as dating from his muster into the service and not from his enlistment.

An entryman having enlisted and served ninety days during any one of the wars above mentioned is entitled under section 2305 of the Revised Statutes to credit for the full term of his service under that enlistment, although such term did not expire until after the war ceased.

A person who served for less than ninety days in the Army or Navy of the United States during said wars is not entitled to have credit for military service on the required period of residence upon his homestead, although he may have been discharged for disability incurred in line of duty.

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 upon the land 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. Such soldier or sailor is not required to reside personally upon 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.

After an entryman under the enlarged homestead Act of February 19, 1909 (35 Stat., 639), or the Act of June 17, 1910 (36 Stat., 531), relating to Idaho, has resided upon the land embraced in his entry for such period, not less than one year, as will, with the term of his military service during the wars above mentioned, constitute five years, further residence need not be continued, but cultivation must be continued for the period required under said Acts. Persons who may be entitled to leave the land after they have resided thereon for such period as, with their military service, amounts to five years should not, however, do so without keeping the Register and Receiver of the local land office informed of their addresses so that in the event of contest they may be notified to defend their interests.

Homestead Rights of Widows and Minor Orphan Children of Deceased Soldiers and Sailors.

If a soldier or sailor makes an entry or files a declaratory statement, and dies before perfecting the same, the right to perfect the claim, including the right to claim credit for the soldier's military service, passes to the persons named in section 2291, Revised Statutes; that is, to his widow, or, if there be no widow, to his heirs or devisees.

In case of the death of any person who would be entitled to a homestead under the provisions of section 2304 of the Revised Statutes, but who died prior to the initiation of a claim thereunder, his widow, or in case of her death or remarriage, his minor orphan children by a guardian, duly appointed and officially accredited at the Department of the Interior, may make the filing and entry in the same manner that the soldier or sailor might have done, subject to all the provisions of the homestead laws in respect to settlement and improvements; and the whole term of service, or in case of death during the term of enlistment, the entire period of enlistment in the military or naval service shall be deducted from the time otherwise

required to perfect the title to the same extent as might have been allowed the soldier. (Sec. 2307, Rev. Stat.)

Where a homestead entry is made under section 2307, Revised Statutes, by the widow or minor orphan children of a deceased soldier or sailor, compliance with law both as to residence and improvement is required to be shown to the same extent as would have been required of the soldier or sailor in making entry under section 2304, Revised Statutes, except that credit will be given upon the five-year period for the entire term of the enlistment where the soldier or sailor died during the term of his enlistment. See departmental decision in case of Anna Bowes (32 L. D., 331).

In case of widows, the prescribed evidence of military service of the husband must be furnished, with affidavit of widowhood, giving the date of her husband's death.

In case of minor orphan children, in addition to the prescribed evidence of military service of the father, proof of death or remarriage of the mother must be furnished. Evidence of death may be the testimony of two witnesses or a physician's certificate, duly attested. Evidence of marriage may be certified copy of marriage certificate, or of record of same, or testimony of two witnesses to the marriage ceremony.

Minor orphan children must make a joint entry through their duly appointed guardian, who must file certified copies of the powers of guardianship, which must be transmitted to the General Land Office by the Registers and Receivers.

Soldiers' Declaratory Statements.

Soldiers' and sailors' declaratory statements may be filed in the land office for the district in which the lands desired are located by any person entitled to the benefits of sections 2304 and 2307, Revised Statutes, as explained above. Declaratory statements of this character may be filed either in person or through an agent acting under power of attorney, but the entry must be made in person, and not through an agent, within six months from the filing of the declaratory statement, and residence must also be established within that time.

The party entitled to file a declaratory statement may make entry in person without filing a declaratory statement if he so desires.

The soldiers' declaratory statement, if filed in person, must be accompanied by the prescribed evidence of military service and the oath of the person filing the same, stating his residence and postoffice address, and setting forth that the claim is made for his exclusive use and benefit for the purpose of actual settlement and cultivation, and not, either directly or indirectly, for the use or benefit of any other person; that he has not heretofore made a homestead entry, or filed a declaratory statement under the homestead law (or if he has done so, he must show his qualifications to make a second or additional homestead entry); that he is not the proprietor of more than 160 acres of land in any State or Territory; and that since August 30, 1890, he has not entered or acquired title under the agricultural land laws of the United States, nor is he now claiming under said laws a quantity of land, which with the tracts applied for would make more than 320

acres, or, in the case of a claim under the enlarged homestead laws, 480 acres.

In case of filing a soldier's declaratory statement by agent, the oath must further declare the name and authority of the agent and the date of the power of attorney or other instrument creating the agency, adding that the name of the agent was inserted therein before its execution. It should also state in terms that the agent has no right or interest, direct or indirect, in the filing of such declaratory statement.

The agent must file (in addition to his power of attorney) his own oath to the effect that he has no interest, either present or prospective, direct or indirect, in the claim; that the same is filed for the sole benefit of the soldier, and that no arrangement has been made whereby said agent has been empowered at any future time to sell or relinquish such claim, either as agent or by filing an original relinquishment of the claimant.

Where a soldier's declaratory statement is filed in person the affidavit of the soldier or sailor must be sworn to before either the Register or the receiver, or before a United States commissioner, or a United States court commissioner, or judge, or clerk of a court of record in the county or land district in which the land sought is situated. Where a declaratory statement is filed by an agent, the agent's affidavit must be executed before one of the officers above mentioned, but the soldier's affidavit may be executed before any officer having a seal and authorized to administer oaths generally, and not necessarily within the land district in which the land is situated.

The fee to be paid to the Register and Receiver of the land office where the declaratory statement is filed is \$2, except in the Pacific States and Territories, where it is \$3.

A homestead entry under a declaratory statement can not be made through an agent, and the entry must be made and settlement on the land commenced within six months after the filing of the declaratory statement, and the party must continue to reside on the land and cultivate it for such period as, added to his military service, will make five years. But he must actually reside upon the land at least one year, whatever may have been the period of his military or naval service.

The filing of a declaratory statement will not be held to bar the admission of filings and entries by others, but any person making entry or claim during the period allowed by law for the entry of the soldier will do so subject to his right; and the soldier's application, when offered within such time, will be allowed as a matter of right, and the intervening claimant will be notified and afforded an opportunity to be heard.

As implied by the requirements of the oath, a soldier will be held to have exhausted his homestead right by the filing of his declaratory statement, it being manifest that the right to file is a privilege granted to soldiers in addition to the ordinary privilege only in the matter of giving them power to hold their claims for six months after selection before entry, but is not a license to abandon such selection with the right thereafter to make a regular homestead entry independently of such filing. This is clear from the statutory language. Section 2304 provides: "A settler shall

be allowed six months after locating his homestead and filing his declaratory statement in which to make entry and commence his settlement and improvement;" and section 2309 requires him "in person" to "make his actual entry, commence settlement and improvement on the same, and thereafter fulfill all the requirements of the law." These must be done on the same lands selected and located by the filing.

Very respectfully,

Fred Dennett,
Commissioner.

Approved.

Jesse E. Wilson,
Acting Secretary.

Revised Statutes.

Sec. 2293. In case of any person desirous of availing himself of the benefits of this chapter, but who, by reason of actual service in the military or naval service of the United States, is unable to do the personal preliminary acts at the district land office which the preceding sections require; and whose family, or some member thereof, is residing on the land which he desires to enter, and upon which a bona fide improvement and settlement have been made, such person may make the affidavit required by law before the officer commanding in the branch of the service in which the party is engaged, which affidavit shall be as binding in law, and with like penalties, as if taken before the Register or Receiver; and upon such affidavit being filed with the Register by the wife or other representative of the party, the same shall become effective from the date of such filing, provided the application and affidavit are accompanied by the fee and commissions as required by law.

Sec. 2304. Every private soldier and officer who has served in the Army of the United States during the recent rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, including the troops mustered into the service of the United States by virtue of the third section of an Act approved February thirteenth, eighteen hundred and sixty-two, and every seaman, marine, and officer who has served in the Navy of the United States or in the Marine Corps during the rebellion for ninety days, and who was honorably discharged and has remained loyal to the Government, and every private soldier and officer who has served in the Army of the United States during the Spanish war, or has served, is serving, or shall serve in the said army during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged; and every seaman, marine, and officer who has served in the Navy of the United States or in the Marine Corps during the Spanish war, or who has served, is serving, or shall have served in the said forces during the suppression of the insurrection in the Philippines for ninety days, and who was or shall be honorably discharged, shall, on compliance with the provisions of this chapter, as hereinafter modified, be entitled to enter upon and receive patents for a quantity of public lands not exceeding one hundred and sixty acres, or one quarter section, to be taken in compact form, according to legal subdivisions, including the alternate reserved sections of public lands along the line of any railroad or other public work

not otherwise reserved or appropriated, and other lands subject to entry under the homestead laws of the United States; but such homestead settler shall be allowed six months after locating his homestead and filing his declaratory statement within which to make his entry and commence his settlement and improvement. (As amended by Act March 1, 1901.)

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 required 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 March 1, 1901.)

"Sec. 2306. Every person entitled, under the provisions of section twenty-three hundred and four, to enter a homestead, who may have heretofore entered, under the homestead laws, a quantity of land less than one hundred and sixty acres, shall be permitted to enter so much land as, when added to the quantity previously entered, shall not exceed one hundred and sixty acres."

For secs. 2304, 2305, 2307, and 2309, see pages ———.

Sec. 2307. In case of the death of any person who would be entitled to a homestead under the provisions of section two thousand three hundred and four, his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, by a guardian duly appointed and officially accredited at the Department of the Interior, shall be entitled to all the benefits enumerated in this chapter, subject to all the provisions as to settlement and

improvement therein contained; but if such person died during his term of enlistment, the whole term of his enlistment shall be deducted from the time heretofore required to perfect the title.

* * * * *

Sec. 2309. Every soldier, sailor, marine, officer, or other person coming within the provisions of section two thousand three hundred and four, may, as well by an agent as in person, enter upon such homestead by filing a declaratory statement, as in pre-emption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlements and improvements on the same, and thereafter fulfill the requirements of the law.

See Three-Year Homestead Law and Regulations Thereunder, page 473.

SOLDIERS' ADDITIONAL HOMESTEADS.

Lands in Former Indian Reservations in Montana Made Subject to—Entries Heretofore Made Validated.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section three of the Act of May first, eighteen hundred and eighty-eight, ratifying and confirming an agreement with the various tribes or bands of Indians residing upon the Gros Ventre, Piegan, Blood, Blackfoot, and River Crow Reservations, in Montana Territory, be, and the same is hereby, amended so as to read as follows:

“Sec. 3. That lands to which the right of the Indians is extinguished under the foregoing agreement are a part of the public domain of the United States and are open to the operation of laws regulating the entry, sale, or disposal of the same: Provided, That no patent shall be denied to entries heretofore made in good faith under any of the laws regulating entry, sale, or disposal of public lands, if said entries are in other respects regular and the laws relating thereto have been complied with.”

(Public No. 462, Approved, March 3, 1911.)

REGULATIONS UNDER TIMBER AND STONE LAW ACT OF JUNE 3, 1878, AND ACTS AMENDATORY. APPROVED NOVEMBER 30, 1908. REVISED AND APPROVED AUGUST 22, 1911.—CIRCULAR NO. 50.

Department of the Interior,
General Land Office,
Washington, D. C., November 30, 1908.

Registers and Receivers,
United States Land Offices.

Sirs: The regulations under the Act of June 3, 1878 (20 Stat., 89), and amendatory acts, commonly known as the timber and stone law, are hereby revised, modified, and reissued as follows:

Provision for Appraisement.

Any lands subject to sale under the foregoing Acts, may, under the direction of the Commissioner of the General Land Office, upon application or otherwise, be appraised by smallest legal subdivisions, at their reasonable value, but at not less than \$2.50 per acre; and hereafter no sales shall be made under said Acts except as provided in these regulations.

Character of Lands Subject to Entry.

All unreserved, unappropriated, nonmineral, surveyed, public lands within the public-land States, which are valuable chiefly for

the timber or stone thereon and unfit for cultivation at the date of sale, may be sold under this Act at their appraised value, but in no case at less than \$2.50 per acre, in contiguous legal subdivisions upon which there is no existing mining claim, or the improvements of any bona fide settler claiming under the public-land laws. The terms used in this statement may be defined substantially as follows for the purpose of construing and applying this law:

2. Unreserved and unappropriated lands are lands which are not included within any military, Indian, or other reservation, or in a national forest, or in a withdrawal by the Government for reclamation or other purposes, or which are not covered or embraced in any entry, location, selection, or filing which withdraws them from the public domain.

3. Unoccupied lands are lands belonging to the United States upon which there are no improvements belonging to any person who has initiated and is properly maintaining a valid mining or other claim to such lands under the public land laws. Abandoned and unused mines, shafts, tunnels, or buildings occupied by mere trespassers not seeking title under any law of the United States, do not prevent timber and stone entries if the land is otherwise capable of being so entered.

4. Nonmineral lands are such lands as are not known to contain any substance recognized and classed by standard authorities as mineral, in such quantities and of such qualities as would, with reasonable prospects of success in developing a paying mine thereon, induce a person of ordinary prudence to expend the time and money necessary to such development.

5. Timber is defined as trees of such kind and quantity, regardless of size, as may be used in constructing buildings, irrigation works, railroads, telegraph and telephone lines, tramways, canals, or fences, or in timbering shafts and tunnels or in manufacturing, but does not include trees suitable for fuel only.

6. Lands valuable chiefly for timber, but unfit for cultivation are lands which are more valuable for timber than they are for cultivation in the condition in which they exist at the date of the application to purchase, and therefore include lands which could be made more valuable for cultivation by cutting and clearing them of timber. The relative values for timber or cultivation must be determined from conditions of the land existing at the date of the application to purchase.

7. Lands in all public land States may be entered, but timber and stone entries can not be made in the Territories or in the District of Alaska.

By Whom Entries May Be Made.

8. One timber and stone entry may be made for not more than 160 acres (a) by any person who is a citizen of the United States, or who has declared his intention to become such citizen, if he is not under 21 years of age, and has not already exhausted his right by reason of a former application for an entry of that kind; or has not already acquired title to or is not claiming under the homestead or desert-land laws through settlement or entry made since August 30, 1890, any other lands which, with the land

he applies for, would aggregate more than 320 acres; or (b) by an association of such persons, or (c) by a corporation, each of whose stockholders is so qualified.

9. A married woman may make entry if the laws of the State in which she applies permit married women to purchase and hold for themselves real estate, but she must make the entry for her own benefit, and not in the interest of her husband or any other person, and she will be required to show that the money she pays for the land was not furnished by her husband.

10. Any qualified person may obtain title under the timber and stone law by performing the following acts: (a) Personally examining the land desired; (b) presenting an application and sworn statement, accompanied by a filing fee of \$10; (c) depositing with the Receiver the appraised price of the land; (d) publishing notice of his application and proof; (e) making final proof.

11. Examination of the land must be made by the applicant in person not more than thirty days before the date of his application, in order that he may knowingly swear to its character and condition.

Application and Sworn Statement: Deposit.

12. The application and sworn statement must contain the applicant's estimate of the timber, based on examination, and his valuation of the land and the timber thereon, by separate items. (See Form A, Appendix.) It must be executed in duplicate, after having been read to or by the applicant, in the presence of the officer administering the oath, and sworn to by him before such officer, who may be either the Register or the Receiver of the land district in which the land is located, a United States Commissioner, a judge or a clerk of a court of record in the county or parish in which the land is situated, or one of these officers outside of that county or parish, if he is nearer and more accessible to the land than any other qualified officer, and has his office or place of business within the land district in which the land is located. Each applicant must, at the time he presents his application and sworn statement, deposit with the Receiver, either in cash or in post-office money orders payable to the Receiver, a filing fee of \$10.

13. Applications by associations or corporations must, in addition to the facts recited in the foregoing statement, show that each person forming the association or holding stock in the corporation is qualified to make entry in his own right and that he is not a member of any other association or a stockholder in any other corporation which has filed an application or sworn statement for other lands under the timber and stone laws.

Disposition of Application.

14. After application and deposit have been filed in proper form, as required by these regulations, the Register and Receiver will at once forward one copy of the application to the chief of field division having jurisdiction of the land described, who, if he finds legal objection to the allowance of the application, will return it to them with report thereon. The Register and Receiver will, if they concur in an adverse recommendation of the chief of field division, dismiss or deny the application, subject to the appli-

cant's right of appeal; but if they disagree with his recommendation, they will forward the record to the Commissioner of the General Land Office, with their report and opinion thereon, for such action as he may deem advisable.

If the chief of field division finds no such legal objection to the application, he shall cause the lands applied for to be appraised by an officer or employee of the Government. (Designation of Appraiser, Form B. Appendix.)

Appraisement: Method.

15. The officer or employee designated to make the appraisement must personally visit the lands to be appraised, and thoroughly examine every legal subdivision thereof, and the timber thereon, and appraise separately the several kinds of timber at their stumpage value, and the land independent of the timber at its value at the time of appraisement, but the total appraisement of both land and timber must not be less than \$2.50 per acre. He must, in making his report, consider the quantity, quality, accessibility, and any other elements of the value of the land and the timber thereon. The appraisement must be made by smallest legal subdivisions, or the report must show that the valuation of the land and the estimate of the timber apply to each and every subdivision appraised. (See Form C, Appendix.)

Appraisement: Manner of Return: Approval.

16. The completed appraisement must be mailed or delivered personally to the chief of field division under whose supervision it was made, and not to the applicant. Each appraisement upon which an entry is to be allowed must be approved respectively or conjointly as provided in these regulations, by the chief of field division under whose supervision it was made, by the Register and Receiver who allow the entry, or by the Commissioner of the General Land Office.

Appraisement: Disagreement Between Appraising and Approving Officers: How Determined.

17. The chief of field division will return to the appraiser, with his objections, an appraisement which he deems materially low or high, and the appraiser shall, within twenty days from the receipt thereof, resubmit the papers, with such modifications or explanations as he may deem advisable or proper, upon receipt of which the chief of field division will either approve the schedule as then submitted, or forward the papers to the Register and Receiver, with his memorandum of objection. The Register and Receiver will thereunder consider the case. If they approve the appraisement, they will sign the certificate appended thereto, and advise the chief of field division thereof. If the Register and Receiver approve the objection of the chief of field division, they will so indicate, and if the appraising officer is an employee of the Interior Department, under the supervision of the chief of field division, they will return the papers to the chief of field division, who will thereupon order a new appraisement by a different officer. If, however, the Register and Receiver approve the objection of

the chief of field division, when the appraiser is an officer of another bureau of this department, or of another department, they will forward the record of the case to the Commissioner of the General Land Office, who will then determine the controversy.

Appraisement: Notation and Effect Thereof.

18. When the appraisement is completed, the Register and Receiver will note the price on their records, and thereafter the land will be sold at such price only, under the provisions of the timber and stone Acts, unless the land shall have been reappraised in the manner provided herein. (See letter, February 28, 1910, page 583.)

Failure to Appraise: Rights of Applicant: How Terminated.

19. Unless the Land Department, as hereinbefore provided, or otherwise, as directed by the Secretary of the Interior, shall appraise any lands applied for under these regulations within nine months from the date of such application, the applicant may, without notice, within thirty days thereafter, deposit the amount, not less than \$2.50 per acre, specified in his application as the reasonable value of the land and the timber thereon, with the Receiver, if appraisement has not been filed prior to such deposit, and thereupon will be allowed to proceed with his application to purchase as though the appraisement had been regularly made. The failure of the applicant to make the required deposit within thirty days after the expiration of the nine months' appraisement period will terminate his rights without notice.

Notice of Appraisement: Payment or Protest.

20. The Register and Receiver, after noting the appraised price on their records, will immediately inform the applicant that he must, within thirty days from service of notice, deposit with the Receiver, either in lawful money or in post-office money orders payable to the Receiver, or as provided in section 36 hereof, the appraised price of the land and the timber thereon, or within the time allowed for payment file his protest against the appraisement, deposit with the Receiver a sum sufficient to defray the expenses of a reappraisal (which sum, not less than \$100, must be fixed by the Register and Receiver and specified in the notice to the applicant), together with his application for reappraisal at his own expense. (See Form D, Appendix.)

Notice should be given by registered letter and the envelope should be marked for return if not delivered within thirty days. If notice be returned after being held in the post office for thirty days, such proceedings will constitute constructive notice for thirty days.

Objection to Appraisement: Application for Reappraisal.

21. Any applicant filing his protest against an appraisement, and his application for reappraisal, must support it by his affidavit, corroborated by two competent, credible, and disinterested persons, in which he must set forth specifically his objections

to the appraisalment. He must indicate his consent that the amount deposited by him for the reappraisalment, or such part thereof as is necessary, may be expended therefor, without any claim on his part for a refund or return of the money thus expended.

Reappraisalment.

22. Upon the receipt of a protest against appraisalment and application for reappraisalment conforming to the regulations herein, the Register and Receiver will transmit such protest and application to the chief of field division, who will cause the reappraisalment to be made by some officer other than the one making the original appraisalment. The procedure provided herein for appraisalment will be followed for reappraisalment, except the latter, if differing from the former, must, to give it effect, be approved by the chief of field division and the Register and Receiver, or, in case of disagreement between them, by the Commissioner of the General Land Office. (Form E, Appendix.)

Notice of Appraisalment.

23. When a reappraisalment is finally effected, the Register and Receiver will note the reappraised price on their records, and at once notify the applicant that he must, within thirty days from the date of notice, deposit with the Receiver the amount fixed by such reappraisalment for the sale of the land, or thereafter, and without notice, forfeit all rights under his application. (Form F, Appendix.)

Cost of Making Reappraisalment.

24. The officer or employee of the United States making the reappraisalment shall be paid from the amount deposited with the Receiver by the applicant therefor, the salary, per diem, and other expenses to which he would have been entitled from the Government, in the case of an original appraisalment, for his services for the time he was engaged in making and returning the reappraisalment. The Receiver will, out of the money deposited by the applicant, pay such compensation, including reasonable expenses for subsistence, transportation, and necessary assistants; and the officer will deduct from his expense account with the Government the amount which he has received from the Receiver for such services. The Receiver will return to the applicant the amount, if any, remaining on deposit with him after paying the expenses of said reappraisalment.

Final Proof.

25. After the appraisalment or reappraisalment and deposit of purchase money and fee have been made the register will fix a time and place for the offering of final proof, and name the officer before whom it shall be offered and post a notice thereof in the land office and deliver a copy of the notice to the applicant, to be by him and at his expense published in the newspaper of accredited standing and general circulation published nearest the land applied for. This notice must be continuously published in the paper for sixty days prior to the date named therein as the day upon which final proof must be offered. (Form "G," appendix.)

Time, Place, and Method of Making Final Proof.

26. Final proof should be made at the time and place mentioned in the notice, and, as a part thereof, evidence of publication, as required by the previous paragraph, should also be filed. If final proof is not made on that day or within ten days thereafter, the applicant may lose his right to complete entry of the land. Upon satisfactory showing, however, explaining the cause of his failure to make the proof as above required, and in the absence of adverse claim, the Commissioner of the General Land Office may authorize him to readvertise and complete entry under his previous application. (See Form "H," Appendix.)

Final Entry.

27. After an appraisalment or reappraisalment has been approved, the payments made, and satisfactory proof submitted in any case as required by these regulations, the Register and Receiver will, if no protest or contest is pending, allow a final entry.

General Provisions.

CONTESTS AND PROTESTS.

28. Protest may be filed at any time before an entry is allowed, and contest may be filed at any time before patent issues, by any person who will furnish the Register and Receiver with a corroborated affidavit alleging facts sufficient to cause the cancellation of the entry, and will pay the cost of contest.

29. If an applicant swear falsely in his application or sworn statement, he will be liable to indictment and punishment for perjury; and if he be guilty of false swearing or attempted fraud in connection with his efforts to obtain title, or if he fail to perform any act or make any payment or proof in the manner and within the time specified in the foregoing regulations, his application and entry will be disallowed and all moneys paid by him will be forfeited to the Government, and his rights under the timber and stone Acts will be exhausted.

EFFECT OF APPLICATION TO PURCHASE.

30. After an application has been presented hereunder no other person will be permitted to file on the land embraced therein under any public-land law until such application shall have been finally disposed of adverse to the applicant.

31. Lands appraised or reappraised hereunder, but not sold, may, upon the final disallowance of the application, be entered by any qualified person, under the provisions of the timber and stone laws, at its appraised or reappraised value, if subject thereto.

32. Lands applied for but not appraised and not entered under these regulations may, when the rights of the applicant are finally terminated, be disposed of as though such application had not been filed.

33. Any lands which have not been reappraised may be reappraised upon the request of an applicant therefor under these regulations who complies with the requirements of section 21 hereof.

34. An applicant securing a reappraisalment under these Regu-

lations shall acquire thereby no right or privilege except that of purchasing the lands at their reappraised value, if he is qualified, and if the lands are subject to sale under his application; and he must otherwise comply with these Regulations, but shall not, in any event, be entitled to the return of any money deposited by him and expended in such reappraisement.

35. The Commissioner of the General Land Office may at any time direct the reappraisement of any tract or tracts of public lands, when, in his opinion, the conditions warrant such action.

36. Unsatisfied military bounty land warrants under any Act of Congress and unsatisfied indemnity certificates of location under the Act of Congress approved June 2, 1858, properly assigned to the applicant, shall be receivable as cash in payment or part payment for lands purchased hereunder at the rate of \$1.25 per acre.

37. Any application to purchase timber and stone lands filed before January 1, 1909, which does not conform to these regulations shall be suspended, and the Register and Receiver should at once notify the applicant that he may, if he so elect, file a new application conformable to these regulations within thirty days from the date of the notice, and that failure to file such new application within the time specified will work a forfeiture of all rights under his suspended application, which will thereupon stand rejected without further notice.

38. These regulations shall be effective on and after December 1, 1908, but all applications to purchase legally pending on November 30, 1908, may be completed by compliance with the regulations in force at the time such applications were filed.

39. The forms mentioned herein and included in the appendix hereto shall be a part of these regulations.

ENTRY OF STONE LANDS.

40. The foregoing regulations apply to entries of lands chiefly valuable for stone, and the forms herein prescribed can be modified in such manner as may be necessary to the making of entries of stone lands.

FORMER REGULATIONS REVOKED.

41. All former regulations, decisions, and practices in conflict with these regulations are hereby revoked.

Very respectfully,

Fred Dennett,
Commissioner.

Approved:

James Rudolph Garfield,
Secretary.

Revised and approved August 22, 1911.

Samuel Adams,
Acting Secretary.

APPENDIX.

REGULATIONS APPROVED NOVEMBER 30, 1908.

Acts Relating to Timber and Stone Entries.

An Act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale, according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: Provided, That nothing herein contained shall defeat or impair any bona fide claim under any law of the United States, or authorize the sale of any mining claim, or the improvements of any bona fide settler, or lands containing gold, silver, cinnabar, copper, or coal or lands selected by the said States under any laws of the United States donating lands for internal improvements, education, or other purposes: And provided further, That none of the rights conferred by the Act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An Act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this Act; and all patents granted 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 and by the provisions of said Act; and such rights shall be expressly reserved in any patent issued under this Act.

Sec. 2. That any person desiring to avail himself of the provisions of this Act shall file with the Register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belonged to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this Act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit, and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whatsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the Register or the Receiver of the land office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of bona fide purchasers, shall be null and void.

Sec. 3. That upon the filing of said statement, as provided in the second section of this Act, the Register of the land office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the Register of the land office satisfactory evidence, first, that said notice of the application prepared by the Register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this Act, unoccupied and without improvement, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase money of said land, together with the fees of the Register and Receiver, as provided for in case of mining claims in the twelfth section of the Act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: Provided, That any person having a valid claim

to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken, and the merits of said objection shall be determined by the officers of the land office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this Act by regulations to be prescribed by the Commissioner of the General Land Office.

* * * * *

Sec. 6. That all Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed.

Approved, June 3, 1878. (20 Stat., 89.)

An Act to authorize the entry of lands chiefly valuable for building stone under the placer mining laws.

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 lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims: Provided, That lands reserved for the benefit of the public schools or donated to any State shall not be subject to entry under this Act.

Sec. 2. That an Act entitled "An Act for the sale of timber lands in the States of California, Oregon, Nevada, and Washington Territory," approved June third, eighteen hundred and seventy-eight, be, and the same is hereby, amended by striking out the words "States of California, Oregon, Nevada, and Washington Territory" where the same occur in the second and third lines of said Act, and insert in lieu thereof the words "public-land States," the purpose of this Act being to make said Act of June third, eighteen hundred and seventy-eight, applicable to all the public-land States.

Sec. 3. That nothing in this Act shall be construed to repeal section twenty-four of the Act entitled "An Act to repeal timber-culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one.

Approved, August 4, 1892. (27 Stat., 348.)

An Act to provide for the location and satisfaction of outstanding military bounty land warrants and certificates of location under section three of the Act approved June second, eighteen hundred and fifty-eight.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That in addition to the benefits now given thereto by law, all unsatisfied military bounty land warrants under any Act of Congress, and unsatisfied indemnity certificates of location under the Act of Congress approved June second, eighteen hundred and fifty-eight, whether heretofore or hereafter issued, shall be receivable at the rate of one dollar and twenty-five cents per acre in payment or part payment for any lands entered under the desert land law of March third, eighteen hundred and eighty- [seventy-] seven, entitled "An Act to provide for the sale of desert lands in certain States and Territories," and the amendments thereto, the timber-culture law of March third, eighteen hundred and seventy-three, entitled "An Act to encourage the growth of timber on the Western prairies," and the amendments thereto; the timber and stone law of June third, eighteen hundred and seventy-eight, entitled "An Act for the sale of timber lands in the States of California, Oregon, Nebraska, and Washington Territory," and the amendments thereto, or for lands which may be sold at public auction, except such lands as shall have been purchased from any Indian tribe within ten years last past.

Approved, December 13, 1894. (28 Stat., 594.)

An Act to abolish the distinction between offered and unoffered 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 in cases arising from and after the passage of this Act the distinction now obtaining in the statutes between offered and unoffered lands shall no longer be made in passing upon subsisting preemption claims, in disposing of the public lands under the homestead laws, and under the timber and stone law of June third, eighteen hundred and seventy-eight, as extended by the Act of August fourth, eighteen hundred and ninety-two, but in all such cases hereafter arising the land in question shall be treated as unoffered, without regard to whether it may have actually been at some time offered or not.

* * * * *

Approved, May 18, 1898. (30 Stat., 418.)

- An Act to amend the Act of Congress of March eleventh, nineteen hundred and two, relating to homesteads.
Sec. 2294 as amended by Act 4, 1904. (33 Stat., 59.) See page 286.
- An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and other purposes.
Approved, August 30, 1890. (26 Stat., 391.) See pages 285, 344.
- An Act to repeal the timber-culture laws, and for other purposes.
Sec. 17. (26 Stat., 1095.) See pages 389, 390.
The 320-acre limitation provided by the above Acts of August 30, 1890 (26 Stat., 391), and March 3, 1891 (26 Stat., 1095), applies to timber and stone entries. (33 L. D., 539, 605.)

[Form A.]

APPLICATION AND SWORN STATEMENT.

[To be made in duplicate.]

Act June 3, 1878, and Acts Amendatory.

Departmental Regulations Approved November 30, 1908.

United States Land Office,
_____, 1908.

I, _____, hereby make application to purchase the _____ quarter of section _____, in township _____ and range _____, in the State of _____, and the timber thereon, at such value as may be fixed by appraisement, made under the authority of the Secretary of the Interior, under the Act of June 3, 1878, commonly known as the "Timber and stone law," and Acts amendatory thereof, and in support of this application I solemnly swear: That I am a native (or naturalized) citizen of the United States (or have declared my intention to become a citizen); that I am _____ years of age and by occupation _____; that I did on _____, 19____, examine said land, and from my personal knowledge state that said land is unfit for cultivation and is valuable chiefly for its timber, and that to my best knowledge and belief, based upon said examination, the land is worth _____ dollars, and the timber thereon, which I estimate to be _____ feet, board measure, is worth _____ dollars, making a total value for the land and timber of _____ dollars and no more; that the land is uninhabited; that it contains no mining or other improvements, nor, as I verily believe, any valuable deposit of gold, silver, cinnabar, copper or coal, or other minerals, salt springs or deposits of salt; that I have made no other application under said Acts; that I do not apply to purchase the land above described on speculation, but in good faith to appropriate it to my own exclusive use and benefit; that I have not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title I may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except myself; that since August 30, 1890, I have not entered any acquired title to, nor am I now claiming, under an entry made under any of the non-mineral public land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres; that I am not a member of any association, or a stockholder in any corporation which has filed an application and sworn statement under said Act; and that my post-office address is _____, at which place any notice affecting my rights under this application may be sent. I request that notice be furnished me for publication in the _____ newspaper, published at _____.

Sign here with full Christian name
I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known, or has been satisfactorily identified before me by _____ (give full name and postoffice address); that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office in _____ (town), _____ (county and State), within the _____ land district this _____ day of _____, 19____.

Official designation of officer.

In case the applicant has been naturalized or has declared his intention

to become a citizen, a certified copy of his certificate of naturalization or declaration of intention, as the case may be, must be furnished.

If the residence is in a city, the street and number must be given.

The newspaper designated must be one of general circulation, published nearest the land.

[Form B.]

DESIGNATION OF APPRAISER.

Departmental Regulations Approved November 30, 1908.

_____, _____, _____, _____, 19__.

Sir: You are designated to appraise the _____ quarter of section _____, township _____, _____, and range _____, _____, which embraces a total of _____ acres. This land has been applied for by _____, of _____, _____, under the timber and stone law. If you accept this designation, it will be your duty to personally visit and carefully examine each and every legal subdivision of the land, and the timber thereon, and to make a return through this office of the approximate quantity, quality, and the stumpage cash value of the various kinds of timber, the cash value of the land, and the total value of the land and timber. The total appraisement of the land and timber, however, must not amount to less than two dollars and fifty cents per acre for each acre appraised. Each legal subdivision must be separately appraised, or your return must show specifically that the appraisement applies to each legal subdivision.

Please inform me as soon as possible, and not later than _____, 19__ whether you will be able to do the work, and also advise me the approximate date the appraisal will be completed.

Very respectfully,

_____,
Chief of Field Division, General Land Office.

[Form C.]

APPRAISAL, TIMBER AND STONE LANDS.

Act March 3, 1878, and Acts Amendatory.

Departmental regulations approved November 30, 1908.

Lot or quarter-quarter.	Kind of timber.	Quality of timber.	Board feet per tract.	Stumpage value per M.	Character of soil.	Value of land exclusive of timber.	Total value of land and timber per acre.	Value of land and timber per tract.

Logging:

Timber must be logged by (wagon haul, flume, river driving, or railroad).

Distance logs or lumber are to be transported to market, miles. Approximate cost per M for transportation of logs or lumber to market, dollars. Accessible? (yes or no). Manufacturing possible on the ground? (yes or no). Will there be improvement in logging facilities in the vicinity? (yes or no). Will the demand for timber products be likely to increase in the neighborhood in the near future? (yes or no). Nearest available quotations on stumpage for the species estimated

....., 19..

STATEMENT BY APPRAISER.

I have carefully examined each and every legal subdivision of the quarter of section, township, range, and the timber

thereon, and the estimates included in the above table and the foregoing statement were based on personal examination. I did not find any indication that the land or any part thereof contains any valuable mineral or coal deposits, and found no improvements or other evidence that any claim is being asserted under any of the public-land laws. I recommend that the application to purchase receive favorable action.

.....
Appraiser.

ACTION ON APPRAISEMENT.

I have carefully examined the within appraisal and find no reason to believe that it is improperly made.
It is therefore, accordingly, approved.

.....
Chief of Field Division.

Note.—The approval of the appraisal by the chief of field division is final, and no action is required thereon by the register and receiver, except to note the appraised price on their records, and to issue the necessary notices. The register and receiver will, in the event of a disagreement between the appraiser and the chief of field division, and their concurrence with the appraiser, sign the following certificate:

United States Land Office,,
.....,

.....

We have carefully considered the within appraisal and the objections thereto urged by the chief of field division, and, believing that the appraisal is not materially high or low, the same is hereby approved.

..... Register.
..... Receiver.

Note.—If the register and receiver concur in the adverse objections of the chief of field division they will proceed in accordance with paragraph 17 of the Regulations approved November 30, 1908.

SUGGESTIONS TO APPRAISERS.

The appraiser should fill in each blank carefully and legibly. Under the head of kinds of timber he should state the species, such as "yellow pine," "white pine," "Douglas fir," "spruce," etc. If there are more than four leading species, all others should be under the head of "Miscellaneous," in the fifth space. The quality of the timber should be judged as far as possible at local sawmills, and should be indicated by such descriptive words as "excellent," "good," "fair," and "poor."

In the first column to the left the description of the land should be given.

[Form D.]

NOTICE TO APPLICANT OF APPRAISEMENT.

Departmental Regulations approved November 30, 1908.
United States Land Office,

.....
.....

.....

Sir: You are informed that the land, and the timber thereon, embraced in your timber and stone application No., filed, 19.., have been appraised in the total sum of dollars.

You are therefore notified that your application for said lands will be dismissed without further notice, if you do not, within thirty days from service of this notice, deposit the appraised price of the land with the receiver of this office, or file your written protest against such appraisal, setting forth clearly and specifically your objection thereto, which protest must be sworn to by you, and corroborated by two competent, credible, and disinterested persons. The protest, if filed, must be accompanied by your application requesting that the land be reappraised at your expense, and you must deposit with the receiver

the sum of dollars, to be expended therefor, and you must indicate your consent that the amount so deposited may be expended for the reappraisalment, without any claim on your part that any portion thereof, so expended, shall be returned or refunded to you.

If a reappraisalment is made under your application, you will secure no right or privilege, except that of purchasing the lands at their reappraised value, if they are subject to sale and you are properly qualified.

Very respectfully,

....., Register.
....., Receiver.

[Form E.]

REAPPRAISEMENT.

Form C may be modified so as to show that the action taken is a reappraisalment instead of an original appraisalment. The return of the appraising officer and indorsements by the chief of field division and the register and receiver must show that the action taken is a reappraisalment, and it must be approved conjointly by the chief of field division and the register and receiver.

[Form F.]

NOTICE OF REAPPRAISEMENT.

Departmental Regulations approved November 30, 1908.
United States Land Office,

.....,
.....

.....

Sir: You are advised that, pursuant to your application, the quarter of section, township, and range, and the timber thereon, embraced in your timber and stone sworn statement, No., have been reappraised, and the price fixed at dollars, which amount you must deposit with the receiver of this office within thirty days from service of notice hereof, or your application will be finally disallowed without further notice.

Very respectfully,

....., Register.
....., Receiver.

[Form G.]

NOTICE OF APPLICATION TO PURCHASE UNDER TIMBER AND STONE LAWS.

Departmental Regulations approved November 30, 1908.
United States Land Office,

....., 19..

Notice is hereby given that whose post-office address is, did on the day of, 19.., file in this office his sworn statement and application No. to purchase the quarter of section, township, range, M., and the timber thereon, under the provisions of the Act of June 3, 1878, and acts amendatory, known as the "Timber and stone law," at such value as might be fixed by appraisalment, and that, pursuant to such application, the land and timber thereon have been appraised, the timber estimated board feet, at \$. per M, and the land \$., or combined value of the land and timber at \$.; that said applicant will offer final proof in support of his application and sworn statement on the day of, 19.., before, at, Any person is at liberty to protest this purchase before entry, or initiate a contest at any time before patent issues, by filing a corroborated affidavit in this office, alleging facts which would defeat the entry.

....., Register.

Where notice is issued under section 19, the register will modify the blank so as to show the valuation placed on the land and the timber thereon was that

made by the applicant when he filed his sworn statement, instead of being fixed by appraisement.

[Form H.]

TIMBER OR STONE ENTRY.

(4—370a.)

Departmental Regulations approved by the Secretary of the Interior November 30, 1908.

Department of the Interior.

U. S. Land Office, , No.

Receipt No.

Final Proof.

I hereby solemnly swear that I am the identical , who presented sworn statement and application, No., for , section , township , range , meridian; that the land is valuable chiefly for its timber, and is, in its present condition, unfit for cultivation; that it is unoccupied and without improvements of any character, except for ditch or canal purposes, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, coal, salines, or salt springs.

(Sign here, with full Christian name.)

(Post-office address.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by ;

(Give full name and post-office address.)

that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office, in , within the land

(Town.) (County and State.)

district, this day of , 19..

(Official designation of officer.)

This form of proof can be accepted only where the land embraced in the application to purchase has been appraised or reappraised pursuant to the provisions of the Timber and Stone Regulations approved November 30, 1908, by the Secretary of the Interior.

Proof supporting applications to purchase under section 19 of the said regulations or under applications pending November 30, 1908, must be made by the applicant and two witnesses, as required by the regulations in force prior to December 1, 1908. (See Forms 4—370 and 4—371.)

[To be used only when sale is made under section 19 of the regulations approved November 30, 1908, and in sales under applications pending November 30, 1908.]

(4—370.)

(Form approved by the Secretary of the Interior November 12, 1907.)

TIMBER OR STONE ENTRY.

Department of the Interior.

U. S. Land Office, ,

Testimony of Claimant.

I, (give full Christian name), being duly called as a witness in support of my application to purchase the , section , township , range , meridian, testify as follows:

Question 1. What is your age, occupation, post-office address, and where do you live?

Answer.

Question 2. Are you a native-born citizen of the United States; and, if so, in what State or Territory were you born? Are you married or single?

Answer.

Question 3. Are you the identical person who applied to purchase this land on the day of , 19.., and made the sworn statement required by law upon that day?

- Answer.
- Question 4. Have you made a personal examination of each smallest legal subdivision of the land applied for?
- Answer.
- Question 5. When, under what circumstances, and with whom was such examination made?
- Answer.
- Question 6. How did you identify said land? Describe it fully.
- Answer.
- Question 7. Is the land occupied, or are there any improvements on it? If so, describe them and state whether they belong to you.
- Answer.
- Question 8. Is the land fit for cultivation, or would it be fit for cultivation if the timber were removed?
- Answer.
- Question 9. What is the situation of this land, what is the nature of the soil, and what causes render the same unfit for cultivation?
- Answer.
- Question 10. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, coal, or other minerals on this land? If so, state what they are.
- Answer.
- Question 11. Is the land valuable for mineral, or more valuable for any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone? (Answer each question.)
- Answer.
- Question 12. From what facts do you conclude that the land is chiefly valuable for timber and stone?
- Answer.
- Question 13. How many thousand feet, board measure, of lumber do you estimate that there is on this entire tract? What is the stumpage value of same?
- Answer.
- Question 14. Are you a practical lumberman or woodsman? If not, how do you arrive at your estimate of the quantity and value of lumber on the tract?
- Answer.
- Question 15. What do you expect to do with this land and the timber when you get title to it?
- Answer.
- Question 16. Do you know of any capitalist or company which has offered to purchase timber land in the vicinity of this entry? If so, who are they, and how do you know them?
- Answer.
- Question 17. Has any person offered to purchase this land if you acquire title? If so, who, and for what amount?
- Answer.
- Question 18. Where is the nearest and best market for the timber on this land at the present time?
- Answer.
- Question 19. What has been your occupation during the past year; where and by whom have you been employed, and at what compensation?
- Answer.
- Question 20. How did you first learn about this particular tract of land, and that it would be a good investment to buy it?
- Answer.
- Question 21. Did you pay or agree to pay anything for this information? If so, to whom, and the amount?
- Answer.
- Question 22. Did you pay out of your own individual funds all the expenses in connection with making this filing, and do you expect to pay for the land with your own money?
- Answer.
- Question 23. Where did you get the money with which to pay for this land, and how long have you had same in your actual possession?
- Answer.
- Question 24. Have you kept a bank account during the past six months? If so, where?

Answer.
 Question 25. Have you sold or transferred your claim to this land since making your sworn statement, or have you directly or indirectly made any agreement or contract, in any way or manner, with any person whomsoever, by which the title which you may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except yourself?

Answer.
 Question 26. Do you make this entry in good faith for the appropriation of the land and the timber thereon exclusively for your own use and not for the use or benefit of any other person?

Answer.
 Question 27. Has any person other than yourself, or any firm, corporation, or association any interest in the entry you are now making, or in the land or in the timber thereon?

Answer.
 * Question 28. Have you since August 30, 1890, entered and acquired title to, or are you now claiming, under an entry made under any of the nonmineral public-land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres?

Answer.

(Sign here, with full Christian name.)
 Note.—Every person swearing falsely to the above deposition will be punished as provided by law for such offense. (See Sec. 125, U. S. Criminal Code, below.) In addition thereto, the money that may be paid for the land is forfeited, and all conveyances of the land, or of any right, title, or claim thereto, are absolutely null and void as against the United States.

* Note.—In addition to the foregoing testimony the officer before whom the proof is made will ask such questions as seem necessary to bring out all the facts in the case.

I hereby certify that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known [or has been satisfactorily identified before me by (give full name and post-office address)]; that I verily believe deponent to be a qualified claimant and the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me, at my office, in (town), (county and State), within the land district, this day of, 19..

I further certify that I tested the accuracy of affiant's information and good faith in making the entry, by close and sufficient cross-examination of claimant and the witnesses, and am satisfied from such examination that the entry is made in good faith for entryman's own exclusive use and not for sale or speculation, nor in the interest of, nor for the benefit of, any other person or persons, firm, or corporation.

.....

 Official designation of officer.

Sec. 125, United States Criminal Code.—Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years.

(4—371.)

(Form approved by the Secretary of the Interior November 12, 1907.)

TIMBER OR STONE ENTRY.

Department of the Interior.
 U. S. Land Office, ,
 Testimony of Witness.

I, (give full Christian name), being duly called as a witness in support of the application of (give full Christian name), filed at the land office, to purchase the section, township, range, meridian, testify as follows:

Question 1. What is your age, occupation, post-office address, and where do you live?

Answer.

Question 2. By whom have you been employed during the last six months?

Answer.

Question 3. Are you acquainted with the land above described by a personal examination of each of its smallest legal subdivisions? Describe the tract fully.

Answer.

Question 4. When, with whom, and in what manner was such examination made?

Answer.

Question 5. Is it occupied or are there any improvements on it not made for ditch or canal purposes, or which were not made by, or do not belong to, the said applicant?

Answer.

Question 6. Is it fit for cultivation?

Answer.

Question 7. What causes render it unfit for cultivation?

Answer.

Question 8. Are there any salines or indications of deposits of gold, silver, cinnabar, copper, coal, or other minerals on this land? If so, state what they are.

Answer.

Question 9. Is the land valuable for mineral, or more valuable for any other purposes than for the timber or stone thereon, or is it chiefly valuable for timber or stone? (Answer each question.)

Answer.

Question 10. From what facts do you conclude that the land is chiefly valuable for timber or stone?

Answer.

Question 11. How long have you known the applicant?

Answer.

Question 12. What is his financial condition so far as you know?

Answer.

Question 13. Do you know of your own knowledge that applicant has sufficient money of his own to pay for this land and hold it six months without mortgaging it?

Answer.

Question 14. Do you know whether the applicant has, directly or indirectly, made any agreement or contract, in any way or manner, with any person whomsoever by which the title he may acquire from the Government of the United States may inure in whole or in part to the benefit of any person except himself?

Answer.

* Question 15. Are you in any way interested in this application or in the land above described, or the timber or stone, salines, mines, or improvements of any description thereon?

Answer.

Note.—Every person swearing falsely to the above deposition will be punished as provided by law for such offense. (See Sec. 125, U. S. Criminal Code, below.)

* Note.—In addition to the foregoing testimony, the officer before whom the proof is made will ask such questions as seem necessary to bring out all the facts in the case.

I hereby certify that the foregoing deposition was read to or by deponent in my presence before deponent affixed signature thereto; that deponent is to me personally known [or has been satisfactorily identified before me by (give full name and post-office address)]; that I verily believe deponent to be a credible witness and the identical person hereinbefore described, and that said deposition was duly subscribed and sworn to before me, at my office, in (town), (county and State), within the land district, this day of, 19..

.....
.....
Official designation of officer.

Sec. 125, United States Criminal Code.—Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years.

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

Registers and Receivers,
United States Land Offices.

Gentlemen: Under the timber and stone regulations approved November 30, 1908 (37 L. D., 289, par. 18), you are directed to note the price fixed by appraisalment on your records, and advised that thereafter the land will be sold at that price only under the timber and stone law, unless subsequently reappraised.

Hereafter, in addition to the notation directed by paragraph 18, you will note on your serial register, as a part of your office record of each timber and stone application, the date of appraisalment, amount of timber, separate values given land and timber, and such other data as would be needed by your office in the event the original application fails of perfection and subsequent application is made for the land at its appraised valuation.

This will avoid the necessity of calling upon this office for the return of the record of appraisalment in such cases.

Very respectfully,

S. V. Proudft,
Commissioner.

LAWS AND REGULATIONS CONCERNING THE FREE USE OF TIMBER UPON PUBLIC MINERAL LANDS.

(For form of application see pages 997 and 998.)

The Act of June 3, 1878, chapter 150 (20 Stat., 88), provides:

“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 citizens, 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.”

REGULATIONS.

In pursuance of the authority granted in the above section of the Act of June 3, 1878, the following rules and regulations are hereby prescribed for the protection of the timber and of the undergrowth upon such lands, and for other purposes incidental thereto. The attention of persons seeking the free use of timber is particularly called to the fact that this Act does not authorize the cutting of timber from any lands subject to any form of nonmineral entry. The Act applies only to lands subject to mineral entry. Lands subject to mineral entry are such lands as are known to contain such deposits of mineral as warrant a prudent person in expending his time or money in the reasonable expectation of developing a mine thereon. The proper protection of the timber and undergrowth upon lands to be cut over necessarily varies with the nature of topography, soil, and forests.

First. Qualified persons within the States and Territories named desiring to take timber for purposes authorized by law must make application for permit to cut timber, such application to be presented or mailed to any Register or Receiver, or to the Chief of Field Division having jurisdiction over the land.

Second. Such application shall set forth the names and legal residence of persons applying to fell and remove, and the names and residence of persons who are to use, the timber; also the amount of timber required by each person, and the use to be made thereof, and the date it is desired to begin cutting; also, the lands to be cut over shall be so described in the application that they may be identified from the description set forth. The application must be verified by an applicant. Blank forms for making applications may be procured by addressing the Chief of Field Division.

Third. Immediately upon receipt of an application, the Chief of Field Division shall cause investigation to be made of the lands, and of material statements in the application. If the Chief of Field Division finds the timber may be cut for the purposes permitted by law, he may authorize cutting to proceed at once under such named restrictions (within the scope of these regulations) as the protection of the timber and undergrowth may require. Such permit, or refusal to grant permit, shall be subject to revision by the Commissioner of the General Land Office.

Fourth. Upon completing investigation of any application, the Chief of Field Division shall make report to the Commissioner of the General Land Office. His report shall contain the application, copy of his permit or letter declining to grant permit, and shall further show (1) whether the lands are mineral, (2) whether persons named in application are (a) qualified to fell and remove, and (b) authorized to use the timber as stated, (3) what percentage of the matured timber may be taken consistent with proper protection of the remaining timber and undergrowth, with the facts upon which he bases his conclusions; and what method of handling the tops, lops, and debris made by logging is necessary for the protection of timber and undergrowth, and the facts upon which his conclusions are based.

Fifth. Permits granted shall specify (1) the persons authorized to fell and remove, and those authorized to use, with amount and use stated as to each person; (2) identify the lands to be cut over; (3) that only matured timber may be taken, and the percentage of the total stand, acre by acre, to be cut; (4) the method of disposing of the tops and other debris; and (5) that the cutting authorized shall be completed within twelve months of date of permit, or application for renewal must be made.

Sixth. No timber may be cut in advance of a determined lawful use.

Seventh. No timber not matured may be cut. Each matured tree taken shall be worked up and utilized for some beneficial domestic purpose. Persons taking timber for specific purposes will be required to take only such matured trees as will work up to such purpose without unreasonable waste.

Eighth. Brush, tops, lops, and other forest debris made in felling and removing timber shall be disposed of in the manner best adapted to protecting the remaining growth, and as stated in the permit granted.

Ninth. No timber cut or removed under the provisions of this Act may be transported from or used out of the State or Territory where cut.

Tenth. Persons who commence cutting upon permit of Chief of Field Division before final approval by the Commissioner will be liable to the Government for a reasonable stumpage for timber so taken in event the permit is not finally approved by the Commissioner because improperly granted. Where permits are secured by fraud, or immature trees are taken, or timber is not taken or used by persons in accordance with the terms of the law, the Government will enforce the same civil and criminal liabilities as in other cases of timber trespass upon public lands.

Eleventh. Registers or receivers receiving applications under this Act will at once forward same to the proper Chief of Field Division, and notify the applicant thereof.

Twelfth. Registers and receivers are required to ascertain from time to time whether any timber is being cut from mineral lands, except as provided by this Act, and notify the Commissioner of the General Land Office, or a special agent of such office, who will make any investigation required. Special agents will also keep informed of all timber cutting within their territory.

Thirteenth. These rules and regulations shall be in force from and after May 1, 1909, and supersede all prior regulations hereunder.

Approved March 16, 1909.

R. A. Ballinger,
Secretary.

Fred Dennett,
Commissioner.

TIMBER CUTTING.

See table of circulars, instructions, and regulations under following subjects.

Timber Cutting.

Protection of Timber.

Cutting Mesquite.

Exportation of Timber.

Logging Regulations.

Cutting Timber for the Use of Mining.

"Until the homestead entry is finally perfected the land belongs to the Government; the settler may use the timber on the land for fencing or other needful purposes; a prior occupant has no right to rails or other timber cut upon it."

Wesley Procop, 2 L. D., 815.

"A settler upon unsurveyed land, with bona fide intent of residence and cultivation, and taking the land under settlement laws, when surveyed, may cut and sell the timber thereon."

John W. Baird, 2 L. D., 817.

"A bona fide settler may dispose of down and fallen timber on his claim for improvements and support while perfecting title."

Mary A. Maxfield, 3 L. D., 63.

Timber taken under Act of March 3, 1875, for purposes of construction only. Denver & Rio Grande Ry. Co., 6 L. D., 449.

"Permits will not be issued under Section 8, Act of March 3, 1891, to cut timber from the unsurveyed land within the primary limits of the Northern Pacific grant in the absence of a showing that the land is mineral in character."

N. P. R. R. Co., 14 L. D., 126. Instructions, 18 L. D., 74.

"Permits to place portable sawmills in the vicinity of dead and down timber, and under the provisions of the Act of June 7, 1897, for the purpose of manufacturing such timber into lumber, may be granted, where the applicant enters into a contract in the form prescribed by the regulations of September 28, 1897, and submits proof as to the present unpracticability of marketing the timber."

Theo. D. Beaulieu, 26 L. D., 86.

Cities and towns are "residents of the State in which they are located within the meaning of that term as used in Section 8, of the Act of March 3, 1891, as amended, conferring upon the residents of certain States and Territories authority to cut timber upon the public lands for agricultural, mining, manufacturing, or domestic purposes.

"Timber used by cities for constructing electric light plants and building bridges, and by counties for building bridges and constructing flumes across the county roads is used for 'domestic purposes' within the meaning of Section 8 of the Act of March 3, 1891, as amended."

City and County of Beaver, 34 L. D., 112.

"The authority and permission to fell and remove timber and trees, conferred by the Act of June 3, 1878 (20 Stat., 88), extends only to the public mineral lands susceptible of mineral entry alone. The Act does not, as to such lands, secure to miners of the vicinity an exclusive right of timber proportion. If any given tract is in fact mineral in character, title to the land, together with the timber thereon, may be acquired under the mining laws, and if vacant and nonmineral available chiefly for timber but unfit for cultivation, containing no mining or other value, may be purchased under the conditions as prescribed by the Act of June 3, 1878 (3 Stat., 88), 35 L. D., 90. Regulations, 37 L. D., 492; 39 L. D., 75.

WIDOWS AND HEIRS OF HOMESTEAD SETTLERS AND ENTRYMEN.

The Act of June 6, 1912, amended Sec. 2291 of the Revised Statutes, providing, among other things:

That when the person making entry dies before the offer of final proof is accepted, the entry must show that the entryman had complied with the law in all respects up to the date of his death, and that they have since complied with the law in all re-

spects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land.

For rights of widows, heirs, or devisees under the homestead laws, see "Suggestions to Homesteaders and Persons Desiring to Make Homestead Entries."

Where both parties die leaving infant children the homestead may be sold for cash for the benefit of such children and the purchaser shall receive title from the United States; or residence and cultivation may continue for the prescribed period, when the patent will issue to the children. Where the sale of land is desired for the benefit of minor heirs, application should be made to the Court having jurisdiction in probate matters, for an order of sale. The order of sale and the sale thereunder should be certified to the Register and Receiver under seal of the Court, whereupon Register's final certificate will be issued, after publication of notice for thirty days preceding date to be fixed by the Register and Receiver. Copy of such published notice must be posted in the land office during the period of publication. The following form may be used:

DEPARTMENT OF THE INTERIOR

United States Land Office

NOTICE IS HEREBY GIVEN that191..
 from guardian of purchaser
 minor heir of
 deceased, has made application for the issue
 of patent to him under Section 2292, U. S. Revised Statutes, for
 Sec., T. of Range M. P., containing acres,
 being the land embraced in H. E. Serial No. of the said
 deceased.

All persons having claims to the land adverse to the said
 and the said named minor heir may file protests against the issuance of said
 patent in my office, on or before the day of, 1912.

Register.

(Sec. 2292, Revised Statutes, p. 343.) Consult also decisions under both sections, as shown in Table of Revised Statutes Cited and Construed.

Upon the death of a homesteader who leaves no widow, but both adult and minor heirs, the right to perfect entry passes alike to all the heirs.

See *Bernier vs. Bernier*, 147 U. S., 242.

"The heirs of a deceased homestead entryman may delegate to another the power to perform for their benefit the cultivation on the entry required by law, and such cultivation, if actually carried on in good faith for the required period, constitutes compliance with the homestead law the same as though performed by the heirs themselves."

"The right conferred by law upon the heirs of a deceased homestead entryman to submit final proof on the entry can not be delegated to another."

"Where a homestead claimant, by contract to convey the land embraced in his entry after the submission of final proof, puts it beyond his power to acquire title under the entry except by perjury, he thereby forfeits his rights, and upon proof of such fact the entry will be canceled."

"A homestead entryman who at the time of his death had not acquired the legal title to the land embraced in his entry, was not at such time, by reason of his claim under the entry, a person 'holding real property,' within the meaning of article 1 of the treaty of March 1, 1899, between the United States and Great Britain, and his alien heirs, subjects of the latter country, have therefore no such claim or right to the lands embraced in the entry as is entitled to protection under the provisions of said treaty."

"There is no provision of the homestead law by which any rights or claims to public lands, prior to the issuance of patent, can be devised or succeeded to and perfected by, or on behalf of, other than citizens of the United States."

"The heirs of a deceased homestead entryman who during his lifetime failed to comply with the law, may complete the entry by either residing upon or cultivating the land for the full period of five years, if sufficient of the lifetime of the entry remains for that purpose; or may commute upon a showing of residence and cultivation for fourteen months, but can not commute upon a showing of cultivation alone." (See Three-Year Homestead Law.)

"Upon the death of a homesteader prior to consummation of his claim, his widow, if there be one, succeeds under the homestead law to his right to the land; and the State courts have no jurisdiction to interfere with or divert the succession so fixed by Federal statute."

WATER RIGHTS.

See Mining Claim.

See Sections 2339 and 2340 R. S.

Acquired by prior appropriation and protected under Sections 2339 and 2340. Title of water used for reclamation of desert land must be bona fide appropriation. 1 L. D., 27; 5 L. D., 191; 9 L. D., 6.

"An adverse claim as against an alleged prior appropriation will not be recognized if it appears that undisturbed possession has been maintained under such appropriation for a period sufficient to establish title." 9 L. D., 6.

"The Land Department has authority to determine questions pertaining to appropriation for the reclamation of desert land." 9 L. D., 6.

See Arid Lands.

See Desert Lands.

See Reclamation Land.

See Right of Way, canals, ditches, and reservoir sites.

"Final certificate of patent will not issue upon a desert land entry within a reclamation project until all the payments for water right under such entry have been made and the water right permanently attached to the land." 38 L. D., 194.

ADJUDICATION OF WATER RIGHTS.

Under date of April 16, 1912, the Commissioner of the General Land Office issued instructions to the land offices in Montana, and said:

"Hereafter, in taking or examining final proofs, you will, in every case where water appropriation, as alleged, was made on or after March 9, 1907, require the claimant, if there was, prior to the appropriation, an adjudication of the water rights in the stream involved, to furnish a duly certified copy of the order of court allowing claimant's appropriation. In every case of alleged appropriation on or after March 9, 1907, where copy of such order or decree is not filed, on the ground that no adjudication has been had, you will require claimant to furnish a certificate from the proper court, stating whether there has been such an adjudication."

While these instructions were intended to cover the water right situation in Montana, it is deemed proper to give them here that their applicability may be shown in States having a similar statutory provision concerning water appropriations.

See Reclamation Lands.
See Desert Entries.

WAGON ROADS.

“An executive order of withdrawal made in aid of a congressional grant, where there is no statutory prohibition against such action, rests upon the general authority of the department, and no rights, either legal or equitable, can be acquired by either settlement or equity, in violation of such order.” 26 L. D., 357.

“Mere occupation or use of a body of unsurveyed public land of indefinite area without any intent to acquire title to the particular portion thereof in controversy, is not such an appropriation of that portion as to except it, or the subdivision of which it is a part, from the operation of a wagon road grant.” *Watson v. The Dalles Military Wagon Road Co.*, 24 L. D., 202.

See Military Roads.

See Land Grants, allowing entry of 160 acres on even sections, Act March 3, 1879, 20 Stats., 472.

Land Grants, limitations on suits to annul patents, Act of March 2, 1896, 29 Stats., 42.

Land Grants, Relief of Settlers on, Act of July 1, 1902, 32 Stats., 733.

See Post Roads, Act March 1, 1884, 23 Stats., 32 L. D., 620.

California & Oregon Land Co., 32 L. D., 154; 31 L. D., 424.

Eastern Oregon Land Co., 31 L. D., 174.

The grant to the State of Oregon by the Act of February 25, 1867, to aid in the construction of a military wagon road, was operative only on lands within the boundaries of that State, and lands outside the State, although within six miles of the road, generally constitute a valid basis for indemnity. 37 L. D., 694.

WITNESSES.

See Rules of Practice, Depositions, Subpœnas.

Compulsory attendance, 32 L. D., 132; 39 L. D., 601.

Fees and mileage, 36 L. D., 473.

An Act providing for the compulsory attendance of witness before registers and receivers of the land office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That registers and receivers of the land office, or either of them, in all matters requiring a hearing before them, are authorized and empowered to issue subpœnas directing the attendance of witnesses, which subpœnas may be served by any person by delivering a true copy thereof to such witness, and when served witnesses shall be required to attend in obedience thereto: Provided, That if any subpœna be served under the provisions of this Act by any person other than an officer authorized by the laws of the United States, or of the State or Territory in which the depositions are taken, the service thereof shall be proved by the affidavit of the person serving the same: Provided further, That said subpœnas shall be served within the county in which attendance is required, and at least five days before attendance is required.

Sec. 2. That witnesses shall have the right to receive their fee for one day's attendance and mileage in advance. The fees and mileage of witnesses shall be the same as that provided by law in the district courts of the United States in the district in which such land offices are situated; and the witness shall be entitled to receive his fee for attendance in advance from day to day during the hearing.

Sec. 3. That any person wilfully neglecting or refusing obedience to such subpœna, or neglecting or refusing to appear and testify when subpœnaed, his fees having been paid if demanded, shall be deemed guilty of a misdemeanor, for which he shall be punished by indictment in the district court of the United States or in the district courts of the Territories exercising the jurisdiction of circuit or district courts of the United States. The punishment for such offense, upon conviction, shall be a fine of not more than two hundred dollars, or imprisonment not to exceed ninety days, or both, at the discretion of the court: Provided, That if such witness has been prevented from obeying such subpœna without fault upon his part he shall not be punished under the provisions of this act.

Sec. 4. That whenever the witness resides outside the county in which the hearing occurs, any party to the proceeding may take the testimony of

such witness in the county of such witness's residence in the form of depositions by giving ten days' written notice of the time and place of taking such depositions to the opposite party or parties. The depositions may be taken before any United States commissioner, notary public, judge, or clerk of a court of record. Subpœnas for witnesses before the officer taking depositions may issue from the office of the register or receiver, or may be issued by the officer taking the depositions, and disobedience thereof, as defined in this Act, shall also be punished; and the witness shall receive the same fees and mileage and be subject to the same penalties in all respects as in case of violation of a subpœna to appear before the register or receiver, and subject to the same limitations. The fees of the officer taking the depositions shall be the same as those allowed in the State or Territorial courts, and shall be paid by the party taking the deposition, and an itemized account of the fees shall be made by the officer taking the depositions and attached to the depositions.

Sec. 5. That whenever the taking of any depositions taken in pursuance of the foregoing provisions of this Act is concluded the opposite party may proceed at once at his own expense to take depositions in his own behalf, at the same time and place and before the same officer: Provided, That he shall, before taking of the depositions in the first instance is entered upon, give notice to the opposing party, or any agent or attorney representing him in the taking of said depositions, of his intention to do so.

Approved, January 31, 1903 (32 Stat., 790).

WORDS AND PHRASES.

- "Conspicuous Place" (Hughes et al. v. Gilbert et al., 2 L. D., 756).
 "Children" (W. S. Jackson, 2 L. D., 611).
 "As soon as practicable" (William Rablin, 2 L. D., 764).
 "Jumping" of Claims, "Jumped" (Circular September 29, 1893, 2 L. D., 337).
 "Actual Settler" (Samuel M. Frank, 2 L. D., 628).
 "Sales of Public Lands" (State of Kansas, 2 L. D., 695).
 "After," "Before," "All right and title," "Bona Fide Purchaser" (Charlemagne Tower, 2 L. D., 779).
 "Person," "Corporation," "Entry" (North and South Alabama Rd. Co., 2 L. D., 681).
 "Disposal," "Entry" (Arant v. State of Oregon, 2 L. D., 641).
 "Half," "and," "or" (Indian Allotments, Act February 8, 1887, Instruction, 5 L. D., 521).
 "Homestead Laws" (Kelly v. Maynard, 5 L. D., 591).
 "All lands not locally inapplicable shall have the same force and effect within that State as in the other States of the Union" (State of Kansas v. U. S., 5 L. D., 712).
 "Reasonably" (Pearsall & Freeman, 6 L. D., 227).
 "Shall be disposed of to actual settlers under the Homestead Law" (Indian Allotments Old Columbia Reservation Act of July 4, 1884, and February 8, 1887, Circular July 22, 1887, 43).
 "Confirmed by Congress" (Jean Pierre Clothier, 6 L. D., 447).
 "Public Lands," "Another" (Falconer v. Hunt et al., 6 L. D., 512).
 "Actual and Bonafide," "The Secretary of the Interior shall make all rules and regulations necessary to carry into effect the provisions of this Act" (Chitwood v. Hickok, 7 L. D., 277).
 "Adjacent to line of railroad" (Oregon and Washington Ty. Rd. Co., 7 L. D., 541).
 "Show," also "One or more of the witnesses is absent without the consent or procurement"; "The exercise of proper diligence to procure the attendance of the absent witnesses" (Smith v. Smart, 7 L. D., 63).
 "Actual Settler" (U. S. et al. v. Atterbery et al., 8 L. D., 173).
 "Bonafide Residence" (J. H. Thompson, 10 L. D., 34).
 "Had the benefit of said law" (Jas. W. Berry, 10 L. D., 634).
 "Public Lands" (Frank Burns, 10 L. D., 365).
 "Day," "Business day" (15 L. D., 302).
 "Bonafide," "Actual settlers in good faith" (Rene v. Prendergast, 17 L. D., 385).
 "Actual Settlers in Good Faith" and also "possession," also "Bonafide intent to secure title to the land by purchase from the State or corporation when earned." Also "Actually residing," also the phrase "May have settled said land" (Pawnee Indian Lands, Instructions October 23, 1893, 17 L. D., 490).

- "Land District" (18 L. D., 601).
 "Citizens" (19 L. D., 141).
 "Head of a family" (Nix v. Simon, 19 L. D., 85).
 "Civil Death" (Nix v. Simon, 19 L. D., 85).
 "Reserved from sale by any law of Congress" (Campbell v. Jackson, 19 L. D., 277).
 "Enter"; "Three years after filing said declaration," "Declaration" (Fred W. Kimball, 20 L. D., 67).
 "Casualty" (John Reilly, 20 L. D., 21).
 "Enter"; "Homestead Laws" (Quinn v. Taby, 20 L. D., 528).
 "Fee simple title"; also "But a limited and conditional title only" (Perry v. Krotz, 21 L. D., 503).
 "Could not be heard to charge his landlord with abandonment of the land"; "That is all right, let the Government settle it," "Bonafide" (Marsh v. Huges, 22 L. D., 581).
 "Adverse Claim"; and also "valid" (Jared Martin et al., 23 L. D., 582).
 "Public lands adjacent thereto" (24 L. D., 588).
 "Subject to entry by the first legal applicant" (Hastings & N. D. Rd. Co. v. Arnold, 26 L. D., 538).
 "Occupant" and also "Use and Possession" (Frank Johnson, 28 L. D., 537).
 "Bonafide Settlers" (29 L. D., 501).
 "By their legal subdivisions of 40 acres" (29 L. D., 501). Instruction, February 15, 1900.
 "Lost or otherwise" (John W. Spain, 21 L. D., 362).
 "Permits for Right of Pasturage" (Territory New Mexico, 34 L. D., 143).
 "In a nature of an easement"; "list" (34 L. D., 288).
 "Compact"; also "Shall as nearly compact in form as possible, and in no event over two miles in extreme length" (Ralph Wertz et al., 35 L. D., 585).
 "Own and occupy" (Libolt v. Snider, 35 L. D., 430).
 "Public Land Laws" (Edwin J. Miller, 35 L. D., 411).
 "A preference right of entry"; also "Under the preceding section"; "The right to enter by legal subdivision"; also "Upon payment to the Receiver"; "Exclusive" (Charles S. Morrison, 36 L. D., 127).
 "Foreigner"; "Alien" (36 L. D., 195).
 "Public Lands" (36 L. D., 345).
 "Entry" (36 L. D., 279).
 "Actual Settlers" (State of Oregon, 36 L. D., 509).
 "Lawful Filing" (State of Washington, 37 L. D., 2).
 "Extraordinary emergency" (37 L. D., 32) (Opinion).
 "Gravel" (Zimmerman v. Brunson 38 L. D., 313).
 "Agricultural Lands" (Northern Pacific Ry. Co., 38 L. D., 314).
 "Own and Occupy" (Kincaid Act) (Dibolt v. Coen, 38 L. D., 16).
 "Permanent Forest Reserve" (Act June 11, 1906 (Opinion), 38 L. D., 411).
 "Temporary Forest Reserve" (Act June 11, 1906 (Opinion), 38 L. D., 414).
 "Resident" (Act June 3, 1878, Centerville Mining & Milling Co., 38 L. D., 80).
 "Actual Residence" (Act of August 15, 1894, Adams v. Coates, 39 L. D., 179).
 "Citizen," "Person" (Act of March 3, 1887, 39 L. D., 245).
 "Claimant" (39 L. D., 31).
 "Honorably discharged," within meaning of Section 2304 R. S. (39 L. D., 164).
 "Legal Representation"; "Mortgagee," within meaning of Act of March 26, 1908 (Alexander Fraser, 39 L. D., 151).
 "Person" in the Act of March 3, 1909, includes "State," "Selection" (State of Mont., 39 L. D., 247).
 "Proprietor" within the meaning of Section 2289, Revised Statutes (Galant v. Cole, 39 L. D., 153); (Reiber v. Stauffacher, 39 L. D., 201).

SETTLERS ON RESTORED RAILROAD LANDS.

An Act for the relief of certain settlers on restored railroad lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all persons who shall have settled and made valuable and permanent improvements upon any odd-numbered section of land within any railroad withdrawal in good faith and with the permission and license of the railroad company, for whose benefit the same

shall have been made, and with the expectation of purchasing of such company the land so settled upon, which land so settled upon and improved may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the preemption, homestead or timber culture acts of the United States, shall be permitted at any time within three months after such restoration, and under such rules and regulations as the Commissioner of the General Land Office may prescribe to purchase, not to exceed one hundred and sixty acres in extent of the same legal subdivisions, at the price of two dollars and fifty cents an acre, and to receive patents therefor.

Approved, January 13, 1881 (21 Stat., 315).

CLIMATIC HINDRANCES.

An Act to amend Section 2297 of the Revised Statutes, relating to homestead settlers.

See Three-year homestead law as amended Act June 6, 1912, p. 480.

REIMBURSEMENT FOR FAILURE OF TITLE IN NEBRASKA AND KANSAS.

An Act for the relief of settlers and purchasers of lands on the public domain in the States of Nebraska and Kansas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That for the purpose of reimbursing persons, and the grantees, heirs and devisees of persons, who under the homestead, preemption, or other laws, settled upon or purchased lands within the grant made by an Act entitled "An Act for a grant of lands to the State of Kansas to aid in the construction of the Northern Kansas Railroad and Telegraph," approved July twenty-third, eighteen hundred and sixty-six, and to whom patents have been issued therefor, but against which, persons, or their grantees, heirs or devisees, decrees have been or may hereafter be rendered by the United States circuit courts on account of the priority of said grant made in the Act above entitled, the sum of two hundred and fifty thousand dollars, or so much thereof as shall be required for said purpose, is hereby appropriated: Provided, however, That no part of said sum shall be paid to any one of said parties until after he shall have filed with the Secretary of the Interior a copy of the said decree, duly certified, and also a certificate of the judge of said court rendering the same to the effect that such a decree was rendered in a bona fide controversy between a plaintiff showing title under the grant made in said Act, and defendant holding the patent or holding by deed under the patentee, and that the decision was in favor of the plaintiff on the ground of the priority of the grant made by said Act to the filing, settlement or purchase by the defendant or his grantor; and said claimant shall also file with the said decree and certificate a bill of the costs in such case, duly certified by the judge and clerk in said court. Thereupon it shall be the duty of the Secretary of the Interior to adjust the amount due to each defendant on the basis of what he shall have paid, not exceeding three dollars and fifty cents per acre for the tract, his title to which shall have failed as aforesaid, and the costs appearing by the bill thereof so certified as hereinbefore provided. He shall then make a requisition upon the Treasury for the sum found to be due to such claimant, or his heirs, and devisees or assigns, and shall pay the same to him, taking such release, acquittance or discharge as shall forever bar any claim against the United States on account of the failure of the title as aforesaid: Provided further, That when any person, his grantees, heirs, assigns or devisees, shall prove to the satisfaction of the Secretary of the Interior that his case is like the case of those described in the preceding portions of this Act, except that he has not been sued and subjected to judgment as hereinbefore provided, and that he has in good faith paid to the person holding the prior title by the grant herein referred to the price demanded of him, without litigation, such Secretary shall pay to such person such sum as he has so paid, not exceeding three dollars and fifty cents per acre, taking his release therefor as hereinbefore provided.

Sec. 2. That the provisions of this Act shall only apply to the actual and bona fide settlers on the lands herein referred to, his or their heirs, assigns, or legal representatives, and no one person shall be entitled to the benefits of this Act for compensation for more than one hundred and sixty acres of land: Provided, That all other persons who purchased any part of said land at one

dollar and twenty-five cents per acre, and the money was actually paid into the Treasury, such person, his heirs, assigns, or legal representatives, shall be entitled to repayment of the money so actually paid by them.

Approved, March 3, 1887. (24 Stat., 550.)

ADJUSTMENT OF RAILROAD LAND GRANTS.

An Act to provide for the adjustment of land grants made by Congress to aid in the construction of railroads, and the forfeiture of unearned 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 Secretary of the Interior be, and is hereby, authorized and directed to immediately adjust, in accordance with the decisions of the Supreme Court, each of the Railroad Land Grants made by Congress to aid in the construction of railroads and heretofore adjusted.

Sec. 2. That if it shall appear, upon the completion of such adjustments respectively (respectively), or sooner, that lands have been from any cause heretofore erroneously certified or patented by the United States to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits, and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall have been made, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title heretofore issued for such lands, and to restore the title thereof to the United States.

Sec. 3. That if in the adjustment of said grants, it shall appear that the homestead or preemption entry of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public land laws: Provided, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: And provided also, That he did not voluntarily abandon said original entry. And provided further, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon.

Sec. 4. That as to all lands, except those mentioned in the foregoing section, which have been so erroneously certified or patented as aforesaid, and which have been sold by the grantee company to citizens of the United States, or to persons who have declared their intention to become such citizens, the person or persons so purchasing in good faith, his heirs or assigns, shall be entitled to the lands so purchased, upon making proof of the fact of such purchase at the proper land office, within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted; and patents of the United States shall issue therefor, and shall relate back to the date of the original certification or patenting, and the Secretary of the Interior on behalf of the United States shall demand payment of the company which has so disposed of such lands of an amount equal to the Government price of similar lands; and in case of neglect or refusal of such company to make payment as hereafter specified, within ninety days after the demand shall have been made, the Attorney-General shall cause suit or suits to be brought against such company for the said amount: Provided, That nothing in this Act shall prevent any purchaser of lands erroneously withdrawn, certified or patented as aforesaid from recovering the purchase money therefor from the grantee company, less the amount paid to the United States by such company as by this Act required: And provided, That a mortgage or pledge of such lands by the company shall not be considered as a sale for the purpose of this Act, nor shall this Act be construed as a declaration of forfeiture of any portion of any land grant for conditions broken, or as authorizing an entry for the

same, or as a waiver of any rights that the United States may have on account of any breach of said conditions.

Sec. 5. That where any said company shall have sold to citizens of the United States, or to persons who have declared their intention of becoming such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections, prescribed in the grant, and being coterminous with the constructed parts of said road and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona fide purchaser thereof from said company to make payment to the United States for said lands at the ordinary Government price for like lands, and thereupon patents shall issue therefor to the said bona fide purchaser, his heirs or assigns: Provided, That all lands shall be excepted from the provisions of this section which at the date of such sales were in the bona fide occupation of adverse claimants under the preemption or homestead laws of the United States, and whose claims and occupation have not since been voluntarily abandoned, as to which excepted lands the said preemption and homestead claimants shall be permitted to perfect their proofs and entries and receive patents therefor: Provided further, That this section shall not apply to lands settled upon subsequent to the first day of December, eighteen hundred and eighty-two, by persons claiming to enter the same under the settlement laws of the United States, as to which lands the parties claiming the same as aforesaid shall be entitled to prove up and enter as in other like cases.

Sec. 6. That where any such lands have been sold and conveyed, as the property of any railroad company, for the State and county taxes thereon, and the grant to such company has been thereafter forfeited, the purchaser thereof shall have the prior right, which shall continue for one year from the approval of this Act, and no longer, to purchase such lands from the United States at the Government price, and patents for such lands shall thereupon issue: Provided, That said lands were not, previous to or at the time of the taking effect of such grant, in the possession of or subject to the right of any actual settler.

Sec. 7. That no more lands shall be certified or conveyed to any State or to any Corporation or individual, for the benefit of either of the companies herein mentioned, where it shall appear to the Secretary of the Interior that such transfers may create an excess over the quantity of lands to which said State, Corporation or individual would be rightfully entitled.

Approved, March 3, 1887 (24 Stat., 556).

Note—See Regulations June 15, 1901, 30 L. D., 620, also circular February 14, 1899, Act July 1, 1898, page 170.

ENTRIES FOR BUILDING STONE—EXTENSION OF ACT OF JUNE 3, 1878.

An Act to authorize the entry of lands chiefly valuable for building stone under the placer mining laws.

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 lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims: Provided, That lands reserved for the benefit of the public schools or donated to any State shall not be subject to entry under this Act.

Sec. 2. That an Act entitled "An Act for the sale of timber lands in the States of California, Oregon, Nevada and Washington Territory" approved June third, eighteen hundred and seventy-eight, be, and the same is hereby, amended by striking out the words "States of California, Oregon, Nevada, and Washington Territory" where the same occur in the second and third fines of said Act, and insert in lieu thereof the words "Public-land States," the purpose of this Act being to make said Act of June third, eighteen hundred and seventy-eight, applicable to all the public-land States.

Sec. 3. That nothing in this Act shall be construed to repeal section twenty-four of the Act entitled "An Act to repeal timber-culture laws and for other purposes," approved March third, eighteen hundred and ninety-one.

Approved, August 4, 1892. (27 Stat., 348.)

SURVEY OF PUBLIC LANDS AT REQUEST OF PERSONS OR ASSOCIATIONS OF PERSONS—SPECIAL DEPOSITS THEREFOR.

An Act to amend sections twenty-four hundred and one and twenty-four hundred and three of the Revised Statutes.

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 one of the Revised Statutes of the United States is hereby amended so as to read as follows:

“Sec. 2401. When the settlers in any township, not mineral or reserved by the Government, or persons and associations lawfully possessed of coal lands and otherwise qualified to make entry thereof, or when the owners or grantees of public lands of the United States, under any law thereof, desire a survey made of the same under the authority of the Surveyor-General and shall file an application therefor in writing, and shall deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey, together with all expenditures incident thereto, without cost or claim for indemnity on the United States, it shall be lawful for the Surveyor-General, under such instructions as may be given him by the Commissioner of the General Land Office, and in accordance with law to survey such township or such public lands owned by said grantees of the Government and make return therefor to the general and proper local land office: Provided, That no application shall be granted unless the township so proposed to be surveyed is within the range of the regular progress of the public surveys embraced by existing standard lines or basis for township and subdivisional surveys.

Sec. 2. That section twenty-four hundred and three of the Revised Statutes of the United States as heretofore amended is hereby amended so as to read as follows:

“Sec. 2403. Where settlers or owners or grantees of public lands make deposits in accordance with the provisions of section twenty-four hundred and one, as hereby amended, certificates shall be issued for such deposits which may be used by settlers in part payment for the lands settled upon by them, the survey of which is paid for out of such deposits, or said certificates may be assigned by indorsement and may be received by the Government in payment for any public lands of the United States in the States where the surveys were made, entered or to be entered under the laws thereof.”

Sec. 3. That all laws and parts of laws inconsistent with this Act be, and the same are hereby, repealed.

Received by the President, August 8, 1894.

(Note by the Department of State.—The foregoing Act having been presented to the President of the United States for his approval and not having been returned by him to the house of Congress in which it originated within the time prescribed by the Constitution of the United States, has become a law without his approval.)

August 20, 1894. (28 Stat., 423.)

REVISED STATUTES OF THE UNITED STATES.

The Secretary of the Interior.

Duties of Secretary.—3 Mar., 1849, C. 108, ss. 3, 5, 6, 7, 8, 9, v. 9, p. 395. 8 July 1870, c. 230, s. 1, v. 16, p. 198. 5 Feb. 1859, c. 22, s. 1, v. 11, p. 379. 20 July, 1868, c. 176, s. 1, v. 15, pp. 92, 106. Maguire v. Tyler, 1 Bl., 95.

Sec. 441. The Secretary of the Interior is charged with the supervision of public business relating to the following subjects:

- First. The Census; when directed by law.
- Second. The public lands, including mines.
- Third. The Indians.
- Fourth. Pensions and bounty lands.
- Fifth. Patents for inventions.
- Sixth. The custody and distribution of publications.
- Seventh. Education.
- Eighth. Government Hospital for the Insane.
- Ninth. Columbia Asylum for the Deaf and Dumb.

Commissioner of the General Land Office.

Duties of Commissioner.—25 Apr., 1812. c. 68 s. 1, v. 2. p. 716. 4 July, 1836, c. 352, s. 1, v. 5. p. 107.

Sec. 453. The Commissioner of the General Land Office shall perform, under the direction of the Secretary of the Interior, all executive duties appertaining to the surveying and sale of the public lands, of the United States, or in any wise respecting such public lands, and, also, such as relate to private claims of land, and the issuing of patents for all Agents (grants) of land under the authority of the Government.

Exemplifications of Patents, Records, Books or Papers.

Sec. 461 of the Revised Statutes was amended by the Act of April 2, 1888 (25 Stat., 76), to read as follows:

"Sec. 461. All exemplifications of patents or papers on file or of record in the General Land Office which may be required by parties interested shall be furnished by the Commissioner upon the payment by such parties at the rate of fifteen cents per hundred words, and thirty cents each for photolithographed copies of township plats or diagrams, unverified, not to exceed ten copies to any one person, and twenty-five cents each for all copies in excess of ten, with an additional sum of one dollar for the Commissioner's certificate of verification, with the General Land Office seal; and one of the employees of the office shall be designated by the Commissioner as the Receiving Clerk, and the amount so received shall, under the direction of the Commissioner, be paid into the Treasury; but fees shall not be demanded for such authentic copies as may be required by the officers of any branch of the Government, nor for such unverified copies as the Commissioner, in his discretion, may deem proper to furnish."

Sec. 891. Copies of any records, books or papers in the General Land Office, authenticated by the seal and certified by the Commissioner thereof or, when his office is vacant, by the principal clerk, shall be evidence equally with the original thereof. And literal exemplifications of any such records shall be held, when so introduced in evidence, to be of the same validity as if the names of the officers signing and countersigning the same had been fully inserted in such record.

(See Secs. 461, 2469 and 2470.)

New Orleans Pacific Railway Company May Relinquish Lands in Favor of Settlers, and Make Selections in Lieu Thereof.

Chap. 98.—An Act for the relief of settlers upon lands within the indemnity limits of the grant to the New Orleans Pacific Railway Company.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That authority be, and is hereby, given the New Orleans Pacific Railroad to relinquish any lands within the indemnity limits of its grant, which by decision of the Land Department of the Government has been awarded it, in favor of any settler entitled to the right of entry under the laws of the United States who has been allowed to make entry thereof, or who has resided upon and improved the same for five years, and to select in lieu thereof an equal quantity of other lands, from any of the public lands not mineral, and within the limits of its grant and not otherwise apportionated at the date of selection, to which it shall receive title the same as though originally granted.

Approved, April 14, 1896. (29 Stat., 91.)

Confirmation of Certain Homestead Entries, Prematurely Commuted, etc.

Chap. 312.—An Act relating to commutations of homestead entries, and to confirm such entries when commutation proofs were received by local land officers prematurely.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That whenever it shall appear to the Commissioner of the General Land Office that an error has heretofore been made by the officers of any local land office in receiving premature commutation proofs under the homestead laws, and that there was no fraud practiced by the entryman in making such proofs, and final payment has been made and a final certificate of entry has been issued to the entryman and that there are no adverse claimants to the land described in the certificates of entry whose rights originated prior to making such final proofs, and that no other reason why the title should not vest in the entryman exists except that the commutation was made less than fourteen months from the date of the

homestead settlement, and that there was at least six months' actual residence in good faith by the homestead entryman on the land prior to such commutation, such certificates of entry shall be in all things confirmed to the entryman, his heirs and legal representatives, as of the date of such final certificate of entry, and a patent issued thereon, and the title so patented shall inure to the benefit of any grantee or transferee in good faith of such entryman subsequent to the date of such final certificate: Provided, That this Act shall not apply to commutation and homestead entries on which final certificates have been issued, and which have heretofore been canceled when the lands made vacant by such cancellation have been reentered under the homestead Act.

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

Sec. 3. That all Acts and parts of Acts in conflict with any of the provisions of this Act are hereby repealed.

Sec. 4. That this Act shall take effect and be in force from and after its passage and approval.

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

Confirmations by the Seventh Section of the Act of March 3, 1891.

The seventh section of the Act entitled "An Act to repeal timber-culture laws, and for other purposes," approved March 3, 1891 (26 Stat. L., 1095), reads as follows, viz:

"That whenever it shall appear to the Commissioner of the General Land Office that a clerical error has been committed in the entry of the public lands such entry may be suspended upon proper notification to the claimant through the local land office until the error has been corrected; and all entries made under the preemption, homestead, desert-land, or timber-culture laws, in which final proof and payment may have been made and certificates issued, and to which there are no adverse claims originating prior to final entry and which have been sold or incumbered prior to the first day of March, eighteen hundred and eighty-eight, and after final entry of bona fide purchasers, or incumbrances, for a valuable consideration, shall, unless upon an investigation by a Government agent, fraud on the part of the purchaser has been found, be confirmed and patented upon presentation of satisfactory proof to the land department of such sale or incumbrance: Provided, That after the lapse of two years from the date of the issuance of the Receiver's receipt upon the final entry of any tract of land under the homestead, timber-culture desert-land, or preemption laws, or under this Act, and when there shall be no pending contest or protest against the validity of such entry, the entryman shall be entitled to a patent conveying the land by him entered, and the same shall be issued to him; but this proviso shall not be construed to require the delay of two years from the date of said entry before the issuing of a patent therefor.

Under this section, whenever a clerical error is discovered in any entry of the public lands which can not be accurately corrected by reference to the files, plats, and records of the General Land Office, such entry will be suspended upon notice to the claimant, and so remain until such error shall have been corrected.

The first class of entries confirmed by this section are those heretofore made, and with the additional conditions that there was a sale or incumbrance of the land prior to March 1, 1888, and after the issuance of final certificate to bona fide purchasers or incumbrancers, and that there is no adverse claim originating prior to final entry.

As to this class of entries it must be shown that no adverse claim exists that originated prior to final entry, and this will be usually determined by the records of the local and General Land Offices. The sale or incumbrance must be shown and all conveyances necessary to connect the present claimant of the land with the original entryman, by means of the original deeds, certified copies thereof, or a duly certified abstract of the proper records, together with satisfactory evidence that the incumbrance has not been discharged or that the land has not been reconveyed to the entryman. The bona fides of the sale or incumbrance must appear to the satisfaction of the officers of the Government.

The proviso to said section affects not only entries made prior to the passage of said Act, but also those made and to be made subsequently thereto, and, as to this latter class, may be said to be a statute of limitations. All entries against which contests or protests by individuals were pending

at the date of the passage of said Act are held to have been excepted from the confirmatory provisions of this proviso, and such contests and protests will be considered and disposed of as if same section had not been passed. Where the period of two years from the date of the Receiver's receipt expires after the passage of said Act a contest or protest to be effective to prevent the confirmation of such entry must have been initiated within such period.

As to the effect of the proviso of this section upon proceedings instituted by the Government it is sufficient for the purposes of this circular to say that such proceedings as have been or shall be begun within two years from the date of the Receiver's receipt on final entry are not affected by said proviso, but will be continued to a final determination of the questions involved, and that such proceedings to be effective to take the entry attacked out of the operation of said proviso must have been begun within the said period.

It is not thought proper in this circular to enter into details or attempt to lay down rules to govern all questions that may arise in the administration of this section, and for such information reference may be had to the decisions of the Department.

An Act to amend section four of an Act entitled "An Act to prevent unlawful occupancy of the public lands," approved February twenty-fifth, eighteen hundred and eighty-five.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section four of an Act entitled "An Act to prevent unlawful occupancy of the public lands," approved February twenty-fifth, eighteen hundred and eighty-five, be, and the same is hereby, amended so as to read as follows:

"Sec. 4. That any person violating any of the provisions hereof, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined in a sum not exceeding one thousand dollars, or to be imprisoned not exceeding one year, or both, for each offense."

Approved, March 10, 1908.

60 Congress, Public No. 45, page 40.

An Act to declare and enforce the forfeiture provided by section four of the Act of Congress approved March third, eighteen hundred and seventy-five, entitled "An Act granting to railroads the right of way through the public lands of the United States."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each and every grant of right of way and station grounds heretofore made to any railroad corporation under the Act of Congress approved March third, eighteen hundred and seventy-five, entitled "An Act granting to railroads the right of way through the public lands of the United States," where such railroad has not been constructed and the period of five years next following the location of said road, or any section thereof, has now expired, shall be, and hereby is, declared forfeited to the United States, to the extent of any portion of such located line now remaining unconstructed, and the United States hereby resumes the full title to the lands covered thereby free and discharged from such easement, and the forfeiture hereby declared shall, without need of further assurance or conveyance, inure to the benefit of any owner or owners of land heretofore conveyed by the United States subject to any such grant of right of way or station grounds: Provided, That no right of way on which construction is progressing in good faith at the time of the passage of this Act shall be in any wise affected, validated or invalidated, by the provisions of this Act.

Approved, February 25, 1909.

Second Session of the Sixtieth Congress, 1908-1909.

Chap. 191, page 647.

An Act to validate certain entries of public lands in the State of Colorado.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That no entries or filings for lands in township five and one-half south, of ranges forty-two, forty-three, forty-four, forty-five, and forty-six west, in the State of Colorado, shall be canceled or held invalid because they were not allowed, made, or perfected in the proper land district.

Approved, March 26, 1908.

Public No. 65.

60 Congress, Chap. 101. 1907-1908.

CROW LAND.

The Act of April 27, 1904, among other things, provides:

Sec. 2. That the said agreement be, and the same is hereby, accepted, ratified, and confirmed, as herein amended.

Sec. 3. That for the purpose of surveying and marking so much of the boundary line of the tract ceded and relinquished by the Indians as may be necessary to segregate the same from the lands reserved by them, as provided in article four of said agreement, the sum of one thousand two hundred dollars, or so much thereof as may be necessary, be and the same is hereby appropriated, out of any money in the treasury not otherwise appropriated, and there is hereby appropriated, out of any money in the treasury not otherwise appropriated, the sum of forty thousand dollars, or so much thereof as may be necessary, for the completion of the survey and subdivision of said ceded lands, the same to be reimbursed out of the first moneys to be received from the sale of said lands.

Sec. 4. That the Commissioner of Indian Affairs shall cause allotments to be made, in manner and quantity as provided by existing law, of the lands occupied and cultivated by any Indians on the portion of the reservation by said agreement ceded and relinquished, as required by article three thereof; and where such Indian occupants elect to remove to the diminished reservation he shall cause a schedule to be prepared showing the names of such occupants, the descriptions of the lands, and the character of the improvements thereon. Such improvements shall then be appraised and sold under the direction of the Secretary of the Interior to the highest bidder, no sale to be for less than the appraised value, the proceeds to be paid to the respective Indian occupants as required by said article 3: Provided, That the purchaser of such improvements shall have a preference right, if otherwise qualified, of thirty days after the land becomes subject to entry within which to enter the lands upon which the improvements are located, not exceeding one hundred and sixty acres, in compliance with the provisions herein governing the disposition of said ceded lands.

The Secretary of the Interior shall fix a reasonable time within which such Indian occupants shall elect whether they will remain on the ceded tract or remove to the diminished reservation, and where they elect to remove he shall also fix a reasonable time within which such occupants must remove their improvements if they should chose to do so instead of having the same appraised and sold.

Sec. 5. That before any of the lands by this agreement ceded are opened to settlement or entry the Commissioner of Indian Affairs shall cause the allotments to be made and the schedule to be prepared, as provided for in section four of this Act, and a duplicate of said schedule shall be filed with the Commissioner of the General Land Office. Upon the completion of such allotments and the filing of such schedule and after the sale or removal of such improvements, the residue of such ceded lands, except sections sixteen and thirty-six, or lands in lieu thereof, which shall be reserved for common school purposes, and are hereby granted to the State of Montana for such purpose, shall be subject to withdraw and disposition under the Reclamation Act of June seventeenth, nineteen hundred and two, so far as feasible irrigation projects may be found therein. The charges provided for by said Reclamation Act shall be in addition to the charge of four dollars per acre for the land, and shall be paid in annual instalments as required under the Reclamation Act; and the amounts to be paid for the land shall be credited to the funds herein established for the benefit of the Crow Indians. If any lands in sections sixteen and thirty-six are included in an irrigation project under the Reclamation Act, the State of Montana may select in lieu thereof, as herein provided, other lands not included in any such project, in accordance with the provisions of existing law concerning school land selections. In any construction work upon the ceded lands performed directly by the United States under the Reclamation Act, preference shall be given to the employment of Crow Indians, or whites intermarried with them, so far as may be practicable: Provided, however, That if the lands withdrawn under the Reclamation Act are not disposed of within five years after the passage of this Act, then all of said lands so withdrawn shall be disposed of as other lands provided for in this Act. That the lands not withdrawn for irrigation under said Reclamation Act, which lands shall be determined under the direction of the Secretary of the Interior at the earliest practical date, shall be disposed of under the homestead, townsite,

and mineral land laws of the United States, and shall be opened to settlement and entry by proclamation of the President, which proclamation shall prescribe the manner in which these lands may be settled upon, occupied, and entered by persons entitled to make entry thereof; and no person shall be permitted to settle upon, occupy, or enter any of said lands, except as prescribed in such proclamation, until after the expiration of sixty days from the time when the same are opened to settlement and entry: Provided, That as to the lands opened under such proclamation the rights of honorably discharged Union soldiers and sailors of the late civil and the Spanish war or Philippine insurrection, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes, as amended by the Act of March first, nineteen hundred and one, shall not be abridged: And provided further, That the price of said lands shall be four dollars per acre, when entered under the homestead laws, to be paid as follows:

One dollar per acre when entry is made, and the remainder in four equal annual installments, the first to be paid at the end of the second year.

In addition to the price to be paid for the land, the entryman shall pay the same fees and commissions at the time of commutation or final entry as now provided by law where the price of the land is one dollar and twenty-five cents per acre.

Lands entered under the townsite 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, and in case any entryman fails to make such deferred payments, or any of them, promptly when due, all rights in and to the land covered by his or her entry shall at once cease, and any payments theretofore made shall be forfeited, and the entry shall be held for cancellation and cancelled: Provided, That the lands embraced within such cancelled entry shall, after cancellation of such entry, be subject to entry under the provisions of the homestead law at four dollars per acre until otherwise directed by the President, as herein provided: And provided, That nothing in this Act shall prevent homestead settlers from commuting their entries under section twenty-three hundred and one, Revised Statutes, by paying for the land entered the price fixed herein; receiving credit for payments previously made, except as to lands entered under said Reclamation Act: And provided further, That when, in the judgment of the President, no more of the land herein ceded can be disposed of at said price, he may by proclamation, to be repeated at his discretion, sell from time to time the remaining land subject to the provisions of the homestead law or otherwise as he may deem most advantageous, at such price or prices, in such manner, upon such conditions, with such restrictions, and upon such terms as he may deem best for all the interests concerned.

Sec. 6. That the proceeds received from the sale of said lands in conformity with this Act shall be paid into the Treasury of the United States, and paid to the Crow Indians or expended on their account only as provided in article two of said agreement as herein amended.

No lands in sections sixteen and thirty-six now occupied, as set forth in article three of the agreement herein ratified, or withdrawn for irrigation under the provisions of said Reclamation Act, shall be reserved for school purposes, but the State of Montana shall be entitled to indemnity for any lands so occupied; and the Governor of said State, with the approval of the Secretary of the Interior, is hereby authorized in the tract herein ceded to locate other lands not occupied or withdrawn, which shall be paid for by the United States, as herein provided, in quantity equal to the loss, and such selections shall be made prior to the opening of such lands to settlement, but no selections shall be made by the State of the lands herein ceded except to compensate for losses occurring therein.

Sec. 7. That there is hereby appropriated, out of any money in the Treasury not otherwise appropriated, the sum of ninety thousand dollars, or so much thereof as may be necessary, to pay the said Indians, at the rate of one dollar and twenty-five cents per acre, for the lands granted to the State of Montana, as provided in section five of this Act.

Sec. 8. That nothing in this Act contained shall in any manner bind the United States to purchase any portion of the land herein described, except sections sixteen and thirty-six or the equivalent in each township, or to dispose of said land except as provided herein, or to guarantee to find purchasers for said lands or any portion thereof, it being the intention of this Act that the United States shall act as trustee for said Indians to dispose of said lands and

to expend and pay over the proceeds received from the sale thereof only as received, as herein provided.

Approved, April 27, 1904.

TABLE OF OVERRULED AND MODIFIED CASES.

Cases marked * are now in authority.

- Alaska Copper Company (32 L. D., 128); overruled in court, 37 L. D., 674.
 Aldrich v. Anderson (2 L. D., 71); overruled, 15 L. D., 201.
 Americus v. Hall (29 L. D., 677); vacated, 30 L. D., 388.
 Amidon v. Hegdale (39 L. D., 131); overruled, 40 L. D., 259.
 *Anderson, Andrew et al. (1 L. D., 1); overruled, 34 L. D., 606. (See 36 L. D., 14.)
 Anderson v. Tannehill et al. (10 L. D., 388); overruled, 18 L. D., 586.
 Atlantic & Pacific R. R. Co. (5 L. D., 259); overruled, 27 L. D., 241.
 *Auerbach, Samuel H., et al. (29 L. D., 208); overruled, 36 L. D., 36 (see 37 L. D., 715).
 Baca Float No. Three (5 L. D., 705; 12 L. D., 676; 13 L. D., 624); vacated 29 L. D., 44.
 Bailey, John W., et al. (3 L. D., 386); modified 5 L. D., 513.
 *Baker v. Hurst (7 L. D., 457), overruled 8 L. D., 110 (see 9 L. D., 360).
 Barbour v. Wilson et al. (23 L. D., 462); vacated 28 L. D., 62.
 Barbut, James (9 L. D., 514); overruled, 29 L. D., 698.
 Barlow, S. L. M. (5 L. D., 695); modified, 6 L. D., 648.
 Barch v. Kennedy (3 L. D., 437); modified, 6 L. D., 217.
 Bennett, Peter W. (6 L. D., 672); overruled, 29 L. D., 565.
 Bivins v. Shelley (2 L. D., 282); modified, 4 L. D., 583.
 *Black, L. C. (3 L. D., 101); overruled, 34 L. D., 606 (see 36 L. D., 14).
 Blenkner v. Sloggy (2 L. D., 267); modified, 6 L. D., 217.
 Bradford, A. L. (31 L. D., 132); overruled, 35 L. D., 399.
 Bosh, Gottlieb (8 L. D., 45); overruled, 13 L. D., 43.
 Box v. Ulstein (3 L. D., 143); modified, 6 L. D., 217.
 Bradstreet et al. v. Rhem (21 L. D., 30); reversed, id 544.
 Brady v. Southern Pacific Railroad Co. (5 L. D., 407, 658); overruled 20 L. D., 259.
 Brick Pomeroy Millsite (34 L. D., 320); overruled, 37 L. D., 674.
 *Brown, Joseph T. (21 L. D., 47); overruled, 31 L. D., 222 (see 35 L. D., 399).
 Brown v. Cagle (30 L. D., 8); vacated 30 L. D., 148.
 Bundy v. Livingston (1 L. D., 152); overruled, 6 L. D., 284.
 Burkholder v. Skagen (4 L. D., 166); overruled, 9 L. D., 153.
 Buttery v. Sprout (2 L. D., 293); overruled, 5 L. D., 591.
 Cagle v. Mendenhall (20 L. D., 447); overruled, 23 L. D., 533.
 Cain et al. v. Addenda Mining Co. (24 L. D., 18); vacated, 29 L. D., 62.
 California & Oregon Land Co. (21 L. D., 344); overruled, 26 L. D., 453.
 California, State of (14 L. D., 253); vacated, 23 L. D., 230.
 California, State of (19 L. D., 585); vacated, 23 L. D., 57.
 California, State of (15 L. D., 10); overruled, 23 L. D., 423.
 California, State of (22 L. D., 428); overruled, 32 L. D., 34.
 California, State of, v. Moccettini (19 L. D., 359); overruled, 31 L. D., 335.
 California, State of, v. Pierce (9 C. L. O., 118); modified, 2 L. D., 854.
 California, State of, v. Smith (5 L. D., 543); overruled, 18 L. D., 343.
 Call v. Swaim (3 L. D., 46); overruled, 18 L. D., 373.
 Cameron Lode (13 L. D., 369); overruled, 25 L. D., 518.
 Camplan v. Northern Pacific R. R. Co. (28 L. D., 118); overruled, 29 L. D., 550.
 Case v. Church (17 L. D., 578); overruled, 26 L. D., 453.
 Castello v. Bonnie (20 L. D., 311); overruled, 22 L. D., 174.
 Cawood v. Dumas (22 L. D., 585); vacated, 25 L. D., 526.
 Central Pacific R. R. Co. v. Orr (2 L. D., 525); overruled, 11 L. D., 445.
 Chappell v. Clark (27 L. D., 334); modified, 27 L. D., 532.
 Childress et al. v. Smith (15 L. D., 89); overruled, 26 L. D., 453.
 Christofferson, Peter (3 L. D., 329); modified, 6 L. D., 284 and 624.
 Clafin v. Thompson (28 L. D., 279); overruled, 29 L. D., 693.
 Cochran v. Dwyer (9 L. D., 478); see 39 L. D., 162, 225.
 Colorado, State of (7 L. D., 490); overruled, 9 L. D., 408.
 Cook, Thomas C. (10 L. D., 324); see 39 L. D., 162, 225.
 Cooper, John W. (15 L. D., 285); overruled, 25 L. D., 113.

- Copper, Bullion and Morning Star Lode Mining Claims (35 L. D., 27);
 see 39 L. D., 574.
- Corlis v. Northern Pacific R. R. Co. (23 L. D., 265); vacated, 26 L. D., 652.
- Cornell v. Chilton (1 L. D., 153); overruled, 6 L. D., 483.
- Cowles v. Huff (24 L. D., 81); modified, 28 L. D., 515.
- Cox, L. & H. (30 L. D., 90, 468); vacated, 31 L. D., 114.
- Crowston v. Seal (5 L. D., 213); overruled, 18 L. D., 586.
- Culligan v. State of Minnesota (24 L. D., 22); modified, 34 L. D., 151.
- Dakota Central R. R. Co. v. Downey (8 L. D., 115); modified, 20 L. D., 131.
- Dennison & Willits (11 C. L. O., 261); overruled, 26 L. D., 123.
- Devoe, Lizzie A. (5 L. D., 4); modified, 5 L. D., 429.
- Dickey, Ella I. (22 L. D., 351); overruled, 32 L. D., 331.
- Dowman v. Moss (19 L. D., 526); overruled, 25 L. D., 82.
- Dudymott v. Kansas Pacific R.R. Co. (5 C. L. O., 69); overruled, 1 L. D., 345.
- Dunphy, Elijah M. (8 L. D., 102); overruled, 36 L. D., 561.
- Dysart, Francis J. (23 L. D., 282); modified, 25 L. D., 188.
- Easton, Francis E. (25 L. D., 600); overruled 30 L. D., 355.
- *Elliott v. Ryan (7 L. D., 322); overruled, 8 L. D., 110 (see 9 L. D., 360).
- Emblem v. Weed (16 L. D., 28); overruled, 17 L. D., 220.
- Epley v. Trick (8 L. D., 110); overruled, 9 L. D., 360.
- Erhardt, Finsans (36 L. D., 154); overruled, 38 L. D., 406.
- Ewing v. Rockard (1 L. D., 146); overruled, 6 L. D., 483.
- El Paso Brick Co. (37 L. D., 155); overruled, 40 L. D., 199.
- Falconer v. Price (19 L. D., 167); overruled, 24 L. D., 264.
- Farrell et al. v. Hoge et al. (18 L. D., 81); overruled, 25 L. D., 351.
- Fette v. Christiansen (29 L. D., 710); overruled, 34 L. D., 167.
- Fish, Mary (10 L. D., 606); modified, 13 L. D., 511.
- Fitch v. Sioux City & Pacific R. R. Co. (216 L. and R., 184); overruled,
 17 L. D., 43.
- Fruit, Price (36 L. D., 486); distinguished, 40 L. D., 188.
- Fleming v. Bowe (13 L. D., 78); overruled, 23 L. D., 175.
- Florida Mesa Ditch Co. (14 L. D., 265); overruled, 27 L. D., 421.
- Florida R. R. & Navigation Co. v. Miller (3 L. D., 324); modified, 6 L. D.,
 716; overruled, 9 L. D., 237.
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- Harris, James G. (28 L. D., 90); overruled, 39 L. D., 93.
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REGULATIONS GOVERNING USE OF VACANT CEDED INDIAN LANDS.

To Officers in Charge of Indian Reservations and Registers and
Receivers of United States Land Offices.

Department of the Interior,
Washington, D. C., July 25, 1902.

Gentlemen: Regarding the question of jurisdiction over Indian lands after they have been opened for settlement and entry, under date of November 27, 1911, the First Assistant Secretary of the Interior addressed the Commissioner of Indian Affairs as follows:

JURISDICTION OVER RELINQUISHED INDIAN LANDS.

November 27, 1911.

The Commissioner of Indian Affairs.

Sir: You have submitted the question of jurisdiction over lands within Indian reservations after they have been opened to settlement and entry.

The question is perhaps not one so much of jurisdiction as one involving the rights of the Indians to the use and benefit of the lands after provision has been made extinguishing the Indian claim and making disposition of the lands. You note that such lands may be divided generally into two classes: (1) Those which

the United States has purchased from the Indians and paid for, the Indian claim thereto being thus completely extinguished; and (2) those which the United States agrees to dispose of for the benefit of the Indians, without, however, becoming bound to purchase the lands, whereby the claim of the Indians remains unextinguished until the lands are finally sold.

The department agrees with you that as to the first class the Indians have no further concern and that after the cession such lands are properly under the jurisdiction of the General Land Office.

The department also agrees with you that the Indians are rightfully entitled to the use and benefit of the lands coming within the second class until they shall have been finally disposed of, with the condition, however, that the use thereof shall in nowise interfere with the speedy sale or other disposition provided by law. There should be no difficulty in properly handling such cases through joint cooperation between your office and the General Land Office. There can be no objection to permitting the use of such lands by the Indians or for grazing purposes for the benefit of the Indians, provided always that such use is so controlled as to not interfere with the settlement or sale of the lands. You will in all such cases confer with the General Land Office, with a view of adopting such rules and regulations as may be necessary to secure to the Indians any income that may be properly derived from the lands and at the same time to secure their early sale or settlement, as the law may direct.

In respect to the Round Valley Indian Reservation in California, specifically referred to by you, the act of October 1, 1890 (26 Stat., 658), provides for the survey and allotment of the agricultural lands to the Indians in severalty, for the reservation of a reasonable amount of grazing and timber lands, and for the survey of the remainder of grazing and timber lands into tracts of 640 acres, and the sale of the same, the proceeds thereof, after paying the expenses, to be placed in the Treasury of the United States to the credit of the Indians.

The act of February 8, 1905 (33 Stat., 706), directed that all the lands relinquished from the Round Valley Indian Reservation under the act of October 1, 1890, supra, should be surveyed, reappraised, and thereafter be subject to settlement and entry under the provisions of the homestead laws of the United States, and that all the lands thus opened to settlement remaining undisposed of at the expiration of five years from the taking effect of the act might be sold and disposed of for cash, the proceeds to be disposed of as provided in the act of 1890.

Under these provisions of law this reservation clearly falls within the second class, and the Indians are entitled to possession of the lands until the same shall have been settled upon, entered, or sold. You will immediately confer with the General Land Office, with a view to entering into an arrangement along the lines suggested herein.

A copy of this letter will be sent to the Commissioner of the General Land Office for his information and guidance. Very respectfully,

Samuel Adams, First Assistant Secretary.

To put into effect the foregoing rulings of the department and to provide for concurrent supervision over the lands involved, wherever situated, for the protection and benefit of the Indian owners and protection of prospective settlers, the following instructions are issued:

1. Up to date of entry, sale, or settlement, the lands in class 2 shall be under the jurisdiction of the Bureau of Indian Affairs and under the immediate supervision of the officer in charge of the Indian reservation where the lands are situate.

2. The officer in charge of the Indian reservation will prepare permits for grazing purposes in favor of responsible persons on the form approved by the department September 1, 1911 (5-175a), to which shall be added the following:

It is understood and agreed by the permittee that he will place no improvements upon the lands covered by this permit without first securing the written consent of the officer in charge of the reservation, and all fences and other improvements which he shall place upon the lands shall remain thereon at the expiration of the permit and become the absolute property of the equitable owner of the soil.

It is also understood and agreed by the permittee that from and after the

date of any bona fide settlement, sale, or entry of the lands covered by this permit, or any part thereof, this permit becomes void as to the lands so affected, and the permittee agrees and hereby stipulates that he will not interfere with or in any manner attempt to prevent any person from making settlement, filing, or entry upon any of the lands included in this permit.

The penalty for violating the foregoing conditions and stipulations will be the summary revocation of the permit.

3. No permit shall be issued for a longer period than one year, and all permits shall be subject to the approval of the Secretary of the Interior.

4. Before executing a permit in favor of any person the officer in charge of the reservation will first ascertain from the land office of the district in which the lands are situated if said lands are applied for or are included in any entry of record. And thereafter, upon the execution of a permit, he will furnish the said land office with a description of the lands, the name of the permittee, and length of term, the same to be posted in the land office for the information of the public.

Any and all permits executed under these instructions shall be subject and subordinate to any valid settlement made or maintained under the public-land laws.

5. The officer in charge of the reservation is charged with the duty of preventing all trespassing on lands in class 2, the collection of trespass fees, and the prosecution of trespassers as provided by law.

6. After date of entry, sale, or settlement the lands in class 2 shall be under the jurisdiction of the General Land Office, and any permit in effect at such date shall cease and determine, and if occupied by any Indian such Indian's right of occupancy shall cease.

7. It shall be the duty of the local land officers to furnish the officer in charge of all Indian reservations within their jurisdiction monthly lists of all applications for entry or purchase, as well as all relinquishments filed, embracing lands in class 2, and to furnish also information when requested as to particularly described tracts.

Approved:

F. H. Abbott,
Assistant Commissioner of Indian Affairs.

Approved July 25, 1912:

S. V. Proudfit,

Assistant Commissioner of the General Land Office.

Approved July 25, 1912:

Samuel Adams,

First Assistant Secretary.

MISCELLANEOUS MATTERS.

IMPORTANT SUGGESTIONS CONTESTS.

Applications to Contest.

In cases where the entryman is dead, the application should contain a statement of the death of the entryman, as well as any violation of law or departmental regulation, which renders the land subject to contest.

Service.

Personal service should be made when possible, and every diligence should be exercised to locate the defendant.

In cases of death of entryman, service should be made on all the known heirs. If the heirs are not known, service must be obtained by publication.

All notices of contest should be prepared ready for the signature of the Register or Receiver, or both, when the contest is filed.

Where the heirs of deceased entryman are not known, publication of notice of contest should be made, but where the heirs are known, all the known heirs should receive personal notice of the contest. Where service is made on all known heirs, publication has not been required, even though there may be other heirs.

Desert Entries.

Application to make desert entries should be accompanied with a map, plat, or diagram, showing the streams from water is to be taken, and the plan or method by which the land is to be reclaimed from desert to agriculture in character.

Yearly Proof.

Third yearly proofs must be submitted with a map, plat, or diagram, showing the reclamation plan finally adopted. Final proof must be accompanied with a map, plat, or diagram, showing the character and extent of the improvements made necessary for the reclamation of the land.

Have evidence of water right ready when final desert proof is made.

Oil Lands.

For the act of congress approved March 2, 1911, (36 Stat. 1015), relative to oil and gas lands, and the discovery thereof, see page 459.

Indian Lands.

The rule of the department with reference to the transfer of town lots, will apply to the sale of Indian lands generally. See title assignments.

CIRCULAR NO. 128.

SELECTIONS BY STATES OF LANDS WITHDRAWN, CLASSIFIED, OR VALUABLE FOR COAL.

Department of the Interior,
 General Land Office,
 Washington, June 14, 1912.

Registers and Receivers,

United States Land Offices.

Sirs: Your attention is directed to the act of Congress approved April 30, 1912 (Public, No. 141), entitled "An act to supplement the act of June twenty-second, nineteen hundred and ten, entitled 'An act to provide for agricultural entries on coal lands,'" a copy of which is hereto attached.

The act of June 22, 1910 (36 Stat., 583), entitled "An act to provide for agricultural entries on coal lands," provided that the 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 in tracts not exceeding 160 acres, to selection under section 4 of the act approved August 18, 1894 (28 Stat., 422), known as the Carey Act, and to withdrawal under the act approved June 17, 1902 (32 Stat., 388), known as the reclamation act.

By this act (Apr. 30, 1912), the privileges granted in certain cases, as enumerated above, by the act of June 22, 1910, supra, are extended to the several States in making selections of lands in satisfaction of grants made by Congress. It is further provided that the Secretary of the Interior may, in his discretion, dispose of any isolated or disconnected tracts, under the laws providing for the sale of such tracts of public land. The conditions and reservations as prescribed by the former act are embodied in this act unchanged.

It will be your duty to accept, subject to future approval, selections, otherwise unobjectionable, presented by the several States in satisfaction of congressional grants, embracing lands withdrawn or classified as coal lands, or valuable for coal, if accompanied by a certificate or statement, in case of each application to select, of the officer or officers authorized to act for and in behalf of the State, to the effect that the application is made in accordance with, and subject to, the provisions and reservations of the act of June 22, 1910 (36 Stat., 583), as supplemented by the act of April 30, 1912 (Public, No. 141).

Should the State deny the existence of coal in the land sought to be selected you will proceed in accordance with existing regulations in such cases,

In relation to selections made by some of the States, prior to the passage of this act, of lands withdrawn or classified as coal, you are informed that the department held, under date of May 18, 1912, in such a case from Wyoming (Lander, 05040), on appeal, as follows:

The tender or filing of a school-land indemnity selection by a State in lieu of lands lost by it in place constitutes a mere offer to exchange, confers no vested right upon the selector and does not prevent the taking or withholding of the land by the United States for public uses or purposes. The transaction is not complete, nor does the right of the State vest until the acceptance and approval of the offer of exchange by the Secretary of the Interior. School indemnity selections offered by States for lands classified as coal or known to be valuable for such deposits could not, prior to April 30, 1912, be accepted or approved; but these selections offered and pending at the date of passage of the act of April 30, 1912, may, in the absence of intervening adverse rights, and upon proper election filed by the States, now be allowed and accepted as of April 30, 1912, if there be no other objection. * * *

Very respectfully,

S. V. PROUDFIT,
Assistant Commissioner.

[Public—No. 141.]

An Act to supplement the act of June twenty-second, nineteen hundred and ten, entitled "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, in addition to the classes of entries or filings described in the act of Congress approved June twenty-second, nineteen hundred and ten, entitled "An act to provide for agricultural entries on coal lands," be subject to selection by the several States within whose limits the lands are situate, under grants made by Congress, and to disposition, in the discretion of the Secretary of the Interior, 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 all such lands so selected or sold and of the right to prospect for, mine, and remove the same in accordance with the provisions of said act of June twenty-second, nineteen hundred and ten, and such lands shall be subject to all the conditions and limitations of said act.

Approved, April 30, 1912.

FORMS.

APPROVED AND UNAPPROVED.

[4—001.]

No. Land Office at,
, 19..

I,, of County,, do hereby apply to purchase
 the Section, in Township, of Range, contain-
 ing acres, according to the returns of the Surveyor-General, for which
 I have agree with the register to give at the rate of per acre.

I,, Register of the Land Office at, do hereby certify
 that the lot above described contains acres, as mentioned above, and
 that the price agreed upon is per acre.
, Register.

[4—002.]

Land Warrant No. Register and Receiver's No.
 Military Bounty Land Act of,
 U. S. Land Office,,
, 19..

We hereby certify that the attached Military Bounty Land Warrant
 (Insert date of act.)
 No. was on this day received at this office, from, of
 County, State of

....., Register.
, Receiver.

I,, of County, State of, hereby apply to locate and
 do locate the quarter of Section No., in township No.,
 of range No., in the district of lands subject to sale the Land Office
 at, containing acres in satisfaction of the attached warrant
 numbered, issued under the act of
 (Give date of act.)

Witness my hand this day of, A. D. 190..
, Register.
, Receiver.

I request the patent to be sent to,
 U. S. Land Office,,
, 190..

We hereby certify that the above location is correct, being in accordance
 with law and instructions.
, Receiver.
, Register.

[4-003.]

(Form approved by the Secretary of the Interior, March 25, 1909.)
Department of the Interior.

HOMESTEAD ENTRY.

(Act February 19, 1909.)

See pages 196, 210.

(Utah.)

[4-003a.]

(Form approved by the Secretary of the Interior, December 8, 1910.)
Department of the Interior.

HOMESTEAD ENTRY.

(Enlarged Homestead Acts, Section 6.)

U. S. Land Office,

Serial No.

Receipt No.

Application and Affidavit.

I, (.....), a resident of, do
(Give full Christian name.) (Town, county and State.)
(Male or female.)

hereby apply to enter under Section 6 of the Act of June 17, 1910 (36 Stat.,
(In Utah, strike out the act of 1910; in Idaho, strike out the act of 1909.)

531), the Section, Township, Range,
Meridian, containing acres, within the land district; and
I do solemnly swear that I am not the proprietor of more than 160 acres of
land in any State or Territory; that I

(Applicant must state whether native-born, naturalized, or has filed declaration of in-
.....citizen of the United States, and
tention to become a citizen. If not native born, certified copy of naturalization or
am;
declaration of intention, as case may be, must be filed with this application.)

(State whether the head of a family, married or unmarried, or over twenty-one
years of age, and if not over twenty-one, applicant must set forth the facts which con-
stitute him the head of a family.)

that my post-office address is; that this application is honestly
and in good faith made for the purpose of actual cultivation, and not for the
benefit of any other person, persons, or corporation; that I will faithfully and
honestly endeavor to comply with all the requirements of law as to residence
and cultivation necessary to acquire title to the land applied for; that I am not
acting as agent of any person, corporation, or syndicate in making this 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 I
do not apply to enter the same for the purpose of speculation, and that I have
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 I may acquire from the Government of
the United States will inure in whole or in part to the benefit of any person
except myself. I have not heretofore made any entry under the homestead,
timber and stone, desert land, or preemption laws (except

(Here describe former entry or entries by section, township, range, land district,
.....);
and number of entry; how perfected, or if not perfected state that fact.)
that I am well acquainted with the character of the land herein applied for
and with each and every legal subdivision thereof, having personally examined

same; that there is not to my knowledge within the limits thereof any vein or lodge of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, or copper, nor any deposit of coal, placer, cement, gravel, salt spring, or deposit of salt, nor other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that my application therefor is not made for the purpose of fraudulently obtaining title to mineral land; that the land is not occupied and improved by any Indian; that the lands applied for do not contain merchantable timber, and no timber except

(Here fully describe amount and kind of timber, if any.)
that it is not susceptible of successful irrigation at a reasonable cost from any known source of water supply except the following areas:

(Give the subdivision and area of the lands, of any, susceptible of irrigation.)
and because of the lack of a sufficient supply of water suitable for domestic purposes, continuous residence on the lands applied for is not possible.
.....

(Sign here, with full Christian name.)

Note.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 125 U. S. Criminal Code.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by);
(Give full name and post-office address.)

that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described; and that said affidavit was duly subscribed and sworn to before me, at my office, in, within the

(Town.) (County and State.)
land district, this day of, 191..

(Official designation of officer.)

We,, of, and, of, do solemnly swear that we are well acquainted with the above-named affiant and the lands described, and personally know that the statements made by him relative to the character of the said lands are true.
.....

I hereby certify that the foregoing affidavit was read to or by affiants in my presence before affiants affixed signatures thereto; that affiants are to me personally known (or have been satisfactorily identified before me by), and that said affidavit was duly subscribed to before me at, this day of, 191..

.....
United States Land Office at, 191..

(Official designation of officer.)

I hereby certify that the foregoing application is for surveyed land of the class which the applicant is legally entitled to enter under Section 6 of the Act of June 17, 1910; that there is no prior valid adverse right to the same, and has this day been allowed.

(In Utah, strike out the act of 1910; in Idaho, strike out the act of 1909.)
.....

Register.

UNITED STATES CRIMINAL CODE.—CHAP. 6.

Sec. 125. Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years. (Act March 4, 1909. 35 Stat., 1111.)

[4—004.]

(Form approved by the Secretary of the Interior, March 25, 1909.)
Department of the Interior.

ADDITIONAL HOMESTEAD.

(Act of February 19, 1909.)

See pages 196, 210.

[Form 4—005.]

APPLICATION FOR AMENDMENT.

See page 351.

[4—006.]

AGRICULTURAL COLLEGE SCRIP OF JULY 2, 1862.

Agricultural Scrip, No. Register and Receiver's No.
State of, Land Office,, 18..

We hereby certify that the attached Scrip, No., State of,
was on this day received at this office, from, of County, State
of

....., Receiver.
....., Register.

I,, of County, State of, hereby apply to locate
and do locate the quarter of Section No., in Township No.,
of Range No., in the district of lands subject to sale at the Land
Office at, containing acres, in satisfaction of the attached scrip
numbered, State of, issued under the Act of July 2, 1862.

Witness by hand this day of, A. D. 18..

Attest:, Receiver.
....., Register.

I request the patent to be sent to Land Office,,
....., 18..

We hereby certify that the above location is correct, being in accordance
with law and instructions.

....., Register.
....., Receiver.

[4—007.]

(Form approved by the Secretary of the Interior, November 12, 1907.)
Department of the Interior.

HOMESTEAD ENTRY.

U. S. Land Office,, No.
Application.

I, (.....), a resident of, do hereby
(Give full Christian name.) (Town, County, and State.)
(Male or female.)
apply to enter, under Section 2289, Revised Statutes of the United States,
the Section, Township, Range, Meridian,

containing acres, within the land district; and I do solemnly swear that I am not the proprietor of more than 160 acres of land in any State or Territory; that I

(Applicant must state whether native born, naturalized, or has filed declaration of intention to become a citizen. If not native born, certified copy of naturalization or declaration of intention, as case may be, must be filed with this application.)

citizen of the United States, and am; (State whether the head of a family, married or unmarried, or over twenty-one years of age.)

that my post-office address is; that this 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 I 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 I am not acting as agent of any person, corporation, or syndicate in making this 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 I do not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for myself, and that I have 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 I may acquire from the Government of the United States will inure in whole or in part to the benefit of any person except myself. I further swear that since August 30, 1890, I have not entered and acquired title to, nor am I now claiming, under an entry made under any of the nonmineral public-land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres; and that I have not heretofore made any entry under the homestead laws (except

.....); (Here describe former homestead entry by section, township, range, land district, and number of entry; how perfected, or if not perfected state that fact.)

that I am well acquainted with the character of the land herein applied for and with each and every legal subdivision thereof, having personally examined same; that there is not to my knowledge within the limits thereof any vein or lode or quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, or copper, nor any deposit of coal, placer, cement, gravel, salt spring, or deposit of salt, nor other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land, and that my application therefor is not made for the purpose of fraudulently obtaining title to mineral land; that the land is not occupied and improved by any Indian.

..... (Sign here, with full Christian name.)

Note.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 5392, R. S.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by

.....) (Give full name and post-office address.)

that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described; and that said affidavit was duly subscribed and sworn to before me, at my office, in, within the (Town.)

..... (County and State.)

land district, this day of, 19..

..... (Official designation of officer.)

United States Land Office at,, 19..

I hereby certify that the foregoing application is for surveyed land of the class which the applicant is legally entitled to enter under Section 2289, Revised Statutes of the United States, and that there is no prior valid adverse right to the same.

..... Register.

Received of the above-named applicant the sum of dollars and

..... cents, being the amount of fees and compensation of the Register and Receiver for the entry of the land, hereinbefore described, under Section 2290, Revised Statutes of the United States.

\$..... Receiver.

Revised Statutes of the United States. Title LXX.—Crimes.—Chap. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment against him is reversed. (See Sec. 1750.)

Note.—In addition to the above penalty, every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment.

[4-007a.]

(Form approved by the Secretary of the Interior July 24, 1912.)

Department of the Interior

APPLICATION FOR REDUCTION OF THE REQUIRED AREA OF CULTIVATION.

(Sec. 2291, R. S., as amended by Act of June 6, 1912—Public, No. 179.)

U. S. Land Office,....., No.....

I,....., of....., (Give post-office address.)

having made Homestead Entry No....., for the.....

....., Section....., Township....., Range....., Meridian.....

..... Land District, hereby apply for a reduction of the required area of cultivation, and, being first duly sworn, upon oath make the following answers to the questions printed below, respectively:

Question 1. State fully, by legal subdivisions, (a) the character of the soil, (b) the condition of the surface, (c) whether the land is level or broken, (d) the kind and amount of timber, or other growth, if any, and (e) the altitude, if more than 1,000 feet above the level of the sea.

Answer:

Question 2. If you have any improvements on the land, describe the same fully in amount, kind, and value.

Answer:

Question 3. When did you establish residence upon the land, and for what periods, if any, have you been absent therefrom since that date?

Answer:

Question 4. State the number of acres, if any, cultivated in each legal subdivision, kind of crop planted, and approximate amount harvested, each year, since date of entry.

Answer:

Question 5. Describe fully the climatic conditions obtaining in the locality of the land, giving the approximate amount of rainfall and the temperature during the ordinary season of cultivation.

Answer:

Question 6. State how many acres of this entry can be cultivated during the second year of the entry and how many acres can be cultivated during the third year of the entry and until final proof, and state fully the reasons why a larger part of the area of the entry can not be cultivated in each such year respectively.

Answer:

(Sign here, with full Christian name.)

NOTE.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. See Section 125, United States Criminal Code.

I HEREBY CERTIFY that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by.....);

(Give full name and post-office address.)

that I verily believe affiant to be the identical person hereinbefore described; and that said affidavit was duly subscribed and sworn to before me, at my office, in....., within the.....

(County and State.) (Town.)

.....Land District, this.....day of....., 19.....

(Official designation of officer.)

CORROBORATING AFFIDAVITS.

We,....., of....., (Give full Christian name.) (Give full post-office address.)years of age, and by occupation.....

and....., of....., (Give full Christian name.) (Give full post-office address.)years of age, and by occupation.....

do solemnly swear that we have been well acquainted with the land for..... years and..... years, respectively; that we have read the statements made in said application; that applicant is a person of truth and veracity, and that we know said statements to be true.

(Sign here, with full Christian name.)

(Sign here, with full Christian name.)

I HEREBY CERTIFY that the foregoing affidavit was read to or by affiants in my presence before affiants affixed signatures thereto; that affiants are to me personally known (or have been satisfactorily identified before me by.....), and I verily believe

affiants to be credible witnesses and the identical persons hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office in....., County,

(Town.)

State of....., within the.....

Land District, this.....day of....., 191.....

(Official designation of officer.)

Note.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. See Section 125, United States Criminal Code.

UNITED STATES LAND OFFICE at....., 19....
We recommend that the application be.....
(See out reasons here.)

.....
.....

Register.

Receiver.

This application may be sworn to before any officer having and using a seal. It must be filed in the local land office of the district in which the land is located. It must not be forwarded by applicant to the Commissioner of the General Land Office or to the Secretary of the Interior.

The following is quoted from a letter from the Secretary of the Interior to the Commissioner of the General Land Office under date of July 15, 1912:

"The Secretary of the Interior is authorized, upon 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 misfortune of the entryman should be the grounds of reduction, 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 exact, special, physical, and climatic conditions of the land entered in each case must, therefore, determine whether the required amount of cultivation should be reduced. * * * 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 form 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.

* * * * *

"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."

Sec. 125, U. S. Criminal Code: Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a oath of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath, state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years.

[4-008.]

ADDITIONAL HOMESTEAD ENTRY.

Under Sec. 2306, U. S. Rev. Stat.

No.

Application.

I,, of, County of, State of, the legal assignee of, a beneficiary under Section 2306, Revised Statutes of the United States, granting additional lands to soldiers and sailors who served in the Army or Navy of the United States during the war of the rebellion, do hereby apply to enter the, Sec., T., R., P. M., containing acres, as additional to his original homestead on the Sec., T., R., P. M., containing acres, entered at, per H. E. No., dated, 19..

Assignee of

I,, Register of the United States Land Office at, do hereby certify that, assignee of, filed the above application before me this day of, 19.., for the tract therein described, and that there is no prior adverse right to the same.

.....
Register.

I hereby certify that the hereto attached assignment of additional homestead under Section 2306, Revised Statutes, was this day received from, with application to enter the same on, Sec., T., R., P. M., that the same might be noted upon the tract books and further action thereon suspended awaiting instructions from the Commissioner; that the fee and commissions are tendered in full. See letter February 18, 1890, circular January 25, 1904, page 238.

.....
Receiver.

[4—008a.]

(Form approved by the Secretary of the Interior, November 12, 1907.)
Department of the Interior.

SOLDIER'S ADDITIONAL HOMESTEAD ENTRY BY ASSIGNEE.

U. S. Land Office,, No.

Application.

I, (.....), a resident of, the legal (Give full Christian name.) (Give full post-office address.) (Male or female.) assignee of (or beneficiaries) under Section 2306, Revised Statutes of the United States, granting additional lands to soldiers and sailors who served in the Army or Navy of the United States during the War of the Rebellion, do hereby apply to enter, Section, Township, Range, Meridian, containing acres, within the, land district, as additional to the original homestead on the, Section, Township, Range, Meridian, containing, acres, entered at the United States Land Office at per Homestead Entry (or Entries) No., dated, 18..; and I do solemnly swear that I am a citizen of the United States, over twenty-one years (State whether native born or naturalized; if naturalized, certified copy of naturalization must be filed with this application.)

of age; that I am the identical person named in the accompanying assignment of, the assignee of, the original beneficiary (or beneficiaries) entitled to make soldier's additional homestead entry (or entries) of acres of public land under the provisions of Section 2306, Revised Statutes, as additional to the original homestead entry (or entries) above described; that I have purchased same in good faith and am now the holder and owner thereof; that I have not made an entry of public lands as such assignee, and that I have not sold or disposed of said right of entry, but that the same is vested in me unimpaired; that as such assignee I present herewith the said assignments, together with proof of right of entry granted to the said beneficiary (or beneficiaries) under the provisions of said Section 2306.

* I am well acquainted with the character of the land herein applied for and with each and every legal subdivision thereof, having personally examined the same; that there is not to my knowledge within the limits thereof any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, or copper, nor any deposit of coal, placer, cement, gravel, salt spring, or deposit of salt, nor other valuable mineral deposit; that no portion of said land is claimed for mining purposes under the local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year by any person or persons; that said land is essentially nonmineral land; that my application therefor is not made for the purpose of fraudulently obtaining title to mineral land; that the land is not occupied and improved by any Indian, and is unoccupied, unimproved, and unappropriated by any person claiming the same other than myself (except)

.....
(Sign here, with full Christian name.)

* Note.—If applicant is not personally acquainted with the character and condition of the land applied for, affidavit as to character and condition may be made by any credible person having the requisite knowledge.

Note.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 5392, R. S., below.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally known (or has been satisfactorily identified before me by);

(Give full name and postoffice address.)

that I verily believe affiant to be a credible person and the identical person hereinbefore described, and that said affidavit was duly subscribed and sworn to before me, at my office, in,, this day of

(Town.)
(County and State.)

....., 19..

.....
(Official designation of officer.)
United States Land Office at,
....., 19..

It is hereby certified that the above application was this day received with the attached assignment of soldier's additional homestead entry that same might be noted on the tract books and further action thereon suspended until advice from the Commissioner of the General Land Office; that the fees and commissions were tendered in full, and that there is no prior or adverse right to the lands applied for.

.....,
Register.
.....,
Receiver.

Revised Statutes of the United States. Title LXX.—Crimes.—Chap. 4.

Sec. 5392. Every person who, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed is true, willfully and contrary to such oath states or subscribes any material matter which he does not believe to be true, is guilty of perjury, and shall be punished by fine of not more than two thousand dollars, and by imprisonment, at hard labor, not more than five years; and shall, moreover, thereafter be incapable of giving testimony in any court of the United States until such time as the judgment is reversed. (See Sec. 1750.)

Note.—In addition to the above penalty, every person who knowingly or willfully in anywise procures the making or presentation of any false or fraudulent affidavit pertaining to any matter within the jurisdiction of the Secretary of the Interior may be punished by fine or imprisonment.

[4—008b.]

(Form approved by the Secretary of the Interior, January 19, 1912.)
Department of the Interior.

ISOLATED TRACT.

See page 353.

(Applicable to Nebraska only.)

[4—008c.]

(Form approved by the Secretary of the Interior, January 19, 1912.)
Department of the Interior.

ISOLATED TRACT.

U. S. Land Office,, Serial No.
Application and Affidavit.

To the Commissioner of the General Land Office.

....., of, respectfully requests that the,
(Give full post-office address.)

Section, Township, Range, Meridian, be ordered into market and sold under the Acts of June 27, 1906 (34 Stats., 517), and March 2, 1907 (34 Stats., 1224), 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

(State amount and character.)
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 480 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.

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 im-
plied, 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);
(Give full name and post-office address.)
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, 191..

.....
(Official designation of officer.)

[4—011.]

APPLICATION TO PURCHASE.

To the Register and Receiver,

United States Land Office at

The undersigned, claimant.. under the provisions of the Revised Statutes of the United States, Chapter Six, Title Thirty-two, and legislation supplemental thereto, hereby appl... to purchase that Mining Claim known as the, Section, in Township No., of Range No.,, Meridian, designated as Lot.. No., said Lot.. No. extending, feet in length along said, vein or lode, but expressly excepting and excluding from this application all that portion of the ground embraced in mining claim.. or survey.. designated at Lot.. No., and also all that portion of any vein or lode the top or apex of which lies inside of said excluded ground; said Lode, claim embracing, acres in said Mill-Site claim, acres, in the, Mining District, in the County of, and, of, as shown by the survey thereof, and hereby agree.. to pay therefor, dollars, being the legal price thereof.

Dated, 190..
.....
.....
.....
.....
.....

I,, Register of the Land Office at, do hereby certify that the aforesaid Mining Claim or Lot.. No. as applied for above, is subject to entry by the above-named applicant..; the area of said Lode, claim being, acres and of said Mill-Site claim, acres, and the legal price thereof, dollars.
....., 190..

Register.

[4—012.]

A.

Acts of June 22, 1860, March 2, 1867, and June 10, 1872.

Register and Receiver's No. Certificate of Location No.

Issued by virtue of a decree rendered on the day of by the Supreme Court of the United States, for the claim of or legal representatives.

I,, hereby apply to locate with the above-described certificate quarter of Section No., in Township No., of Range No., containing, acres, in the district of lands subject to sale at

Witness my hand this day of, A. D. 18..

Attest:
.....
Register.
.....
Receiver.

[4—012a.]

VALENTINE LAND SCRIPT.

Act of April 5, 1872.

Special Certificate of Location E No.

Excess Receipt No., \$. Register and Receiver's No.

Issued to Thomas B. Valentine.

U. S. Land Office,
....., 1..

We hereby certify that the attached Special Certificate of Location E No. was on this day received at this office, from, of, County, State of

....., Register.
....., Receiver.

I,, of County, State of, hereby apply to locate and do locate the quarter of Section No. in Township No., of Range No., Meridian in the District of Lands subject to sale at the Land Office at, containing acres, in satisfaction of the attached Special Certificate of Location E No., issued to said Thomas B. Valentine, under Act of Congress approved April 5, 1872.

Witness my hand this day of, A. D. 1....

Attest:

....., Register.
....., Receiver.

U. S. Land Office,
....., 1....

We hereby certify that the above location is correct, being in accordance with law and instructions.

....., Register.
....., Receiver.

[4-012b.]

DEPARTMENT OF THE INTERIOR.

U. S. Land Office,, No.

INDIVIDUAL CLAIMANT.

Application and Affidavit.

Act of July 1, 1898 (30 Stat., 597-620), and Act of May 17, 1906 (34 Stat., 197).

I, (.....), of, having made relinquish-
(Give full Christian name.) (Male or female.) (Town, County, and State.)
ment of my claim, No., covering, Section, Town-
(Kind.)
ship, Range, Meridian, within the land district,

containing acres, heretofore included in the conflicting claims of the Northern Pacific Railroad Company, or its successor in interest, and myself, which relinquishment was duly accepted by the Commissioner of the General Land Office,, 191.., do hereby make application to select in lieu of the lands so relinquished the following lands, to-wit: in land district; and I do solemnly swear that my post-office address is, that I, an individual claimant, under the Act of July 1, 1898 (30 Stat., 597-620), am acquainted with the lands sought to be selected under the foregoing application, and have examined every subdivision thereof; that there is not to my knowledge within the limits of said land any vein or lode of quartz or other rock in place bearing gold, silver, cinnabar, or other mineral substance; that there is not within the limits of said land to my knowledge any placer or other valuable mineral deposits or any salines; that no portion of said land is claimed for mining purposes under local customs or rules of miners, or otherwise; that no portion of said land is worked for mineral during any part of the year; that said land is essentially nonmineral land; that it does not to my knowledge contain any valuable stone, iron, or coal; that it is not reserved in any manner, is not subject to any valid claim whatsoever, and is not occupied by any settler. And further affiant saith not.

.....
(Sign here with full Christian name.)

Note.—Every person swearing falsely to the above affidavit will be punished as provided by law for such offense. (See Sec. 125, U. S. Criminal Code.)

I hereby certify that the foregoing affidavit was read to or by affiant in my presence before affiant affixed signature thereto; that affiant is to me personally know (or has been satisfactorily identified before me by);

(Give full name and post-office address.)

that I verily believe affiant to be a qualified applicant and the identical person hereinbefore described; and that said affidavit was duly subscribed and sworn to before me, at my office, in, within the

(Town.) (County and State.)

land district, this day of, 191..

.....
.....
(Official designation of officer.)

United States Land Office at....., 191..

We hereby certify that we have carefully considered the foregoing application, and have critically examined the plats and records of this office, so far as they apply to the lands sought to be selected. Finding that the application and proofs fully conform to the statute and regulations thereunder, and that the lands selected appear by the records of this office to be subject to such selection, we have accepted the application and have made due notation thereof upon the records pending the advice of the Commissioner of the General Land Office.

....., Register.
....., Receiver.

Note 1.—This application will not be treated as an entry nor will certificate issue thereon until it has been accepted by the Commissioner of the General Land Office.

Note 2.—This affidavit may be made before the Register or Receiver of the local land office or before any other officer authorized to administer an oath.

If the claim relinquished be a desert land claim, timber culture claim, or a timber purchase claim, which has not been carried to final entry and certificate, or to the submission of final proof entitling the claimant to final entry and certificate, the applicant must also make proof of the character of the land selected, as required by the regulations controlling that class of claims.

To the end that the applicant may receive an early adjudication of his right to make the transfer or selection, the local officers will forward at once all applications made under this Act.

United States Criminal Code—Chapter 6 (35 Stat., 1111).

Sec. 125. Whoever, having taken an oath before a competent tribunal, officer, or person, in any case in which a law of the United States authorizes an oath to be administered, that he will testify, declare, depose, or certify truly, or that any written testimony, declaration, deposition, or certificate by him subscribed, is true, shall willfully and contrary to such oath state or subscribe any material matter which he does not believe to be true, is guilty of perjury, and shall be fined not more than two thousand dollars and imprisoned not more than five years. Act March 4, 1909 (35 Stat., 1111).

[4—018]

Department of the Interior.

ADDITIONAL HOMESTEAD.

Act of April 28, 1904.

U. S. Land Office,, No.....

Application and Affidavit.

Receipt No.....

I,, of....., do hereby apply to enter under section 2 of the Act of April 28, 1904 (33 Stat., 527), the Section....., Township....., Range....., Meridian, containing..... acres, as additional to my Homestead Entry No....., made..... at..... Land Office for the..... Section....., Township....., Range....., Meridian.

I do solemnly swear that I am the owner of and am residing upon the land included in my original entry above described, and that this application is made for my exclusive benefit as an addition to my original homestead entry, and not directly or indirectly for the use or benefit of any other person or persons whomsoever, and that I have not heretofore made an entry under the homestead laws other than that above described, except.....; that since August 30, 1890, I have not entered and acquired title to, nor am I now claiming, under an entry made under any of the nonmineral public land laws, an amount of land which, together with the land now applied for, will exceed in the aggregate 320 acres; that I am well acquainted with the character of the land herein applied for and with each and every legal subdivision thereof, having personally