CIRCULAR NO. 414

DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE

SUGGESTIONS

TO

HOMESTEADERS AND PERSONS DESIRING TO MAKE HOMESTEAD ENTRIES

APPROVED JUNE 1, 1915

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1915

LIST OF UNITED STATES LAND OFFICES.

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

ALABAMA:
Montgomery.

ALASKA:
Fairbanks.
Juneau.
Nome.

ARIZONA:
Phoenix.

ARKANSAS:
Camden.
Harrison.
Little Rock.

CALIFORNIA:
Eureka.
Independence.
Los Angeles.
Sacramento.
San Francisco.
Susanville.
Visalia.

COLORADO:
Del Norte.
Denver.
Durango.
Glenwood Springs.
Hugo.
Lamar.
Leadville.
Montrose.
Pueblo.
Sterling.

FLORIDA:
Gainesville.

IDAHO:
Blackfoot.
Boise.
Coeur d'Alene.
Hailey.
Lewiston.

KANSAS:
Dodge City.
Topeka.

LOUISIANA:
Baton Rouge.

MICHIGAN:
Marquette.

MINNESOTA:
Cass Lake.
Crookston.
Duluth.

MISSISSIPPI:
Jackson.

MISOURI:
Springfield.

MONTANA:
Billings.
Bozeman.
Glasgow.
Great Falls.
Havre.
Helena.
Kalispell.
Lewistown.
Miles City.
Missoula.

NEBRASKA:
Alliance.
Broken Bow.
Lincoln.
North Platte.
O'Neill.
Valentine.

NEVADA:
Carson City.
Elko.

NEW MEXICO:
Clayton.
Fort Sumner.
Las Cruces.
Roswell.
Santa Fe.
Tucumcari.

NORTH DAKOTA:
Bismarck.
Dickinson.
Minot.
Williston.

OKLAHOMA:
Guthrie.
Woodward.

OREGON:
Burns.
La Grande.
Lakeview.
Portland.

OREGON—Continued.
Roseburg.
The Dalles.
Vale.

SOUTH DAKOTA:
Bellefourche.
Gregory.
Lemmon.
Pierre.
Rapid City.
Timber Lake.

UTAH:
Salt Lake City.
Vernal.

WASHINGTON:
North Yakima.
Seattle.
Spokane.
Vancouver.
Walla Walla.
Waterville.

WISCONSIN:
Wausau.

WYOMING:
Buffalo.
Cheyenne.
Douglas.
Evanston.
Lander.
Sundance.

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

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

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

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

SUGGESTIONS TO HOMESTEADERS AND PERSONS DESIRING TO MAKE HOMESTEAD ENTRIES.

DEPARTMENT OF THE INTERIOR,
GENERAL LAND OFFICE,
Washington, D. C., June 1, 1915.

[In this revision of the Suggestions to Homesteaders a great many paragraphs have been changed from the form in which they appeared in that of January 2, 1914 (43 L. D., 1), namely, those numbered 2, 3, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 21, 22, 24, 25, 26, 28, 32, 33, 34, 35 (*b*), 36, 37, 40, 43, 44, 46, 47, and 48.]

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

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

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

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

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

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

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

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

2. *Kind of land subject to homestead entry.*—All unappropriated surveyed public lands adaptable to any agricultural use are subject to homestead entry if they are not mineral or saline in character and are not occupied for the purposes of trade or business and have not been embraced within the limits of any withdrawal, reservation, or incorporated town or city; but homestead entries on lands within certain areas (such as lands in Alaska, lands withdrawn under the reclamation act, certain ceded Indian lands, lands within abandoned military reservations, agricultural lands within national forests, lands in western and central Nebraska, and lands withdrawn, classified, or valuable for coal, phosphate, nitrate, potash, oil, gas, or asphaltic minerals) are made subject to the particular requirements of the laws under which such lands are opened to entry. None of these particular requirements are set out in these suggestions, but information as to them may be obtained by either verbal or written inquiries addressed to the register and receiver of the land office of the district in which such lands are situated.

HOW CLAIMS UNDER THE HOMESTEAD LAW ORIGINATE.

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

(*b*) Under the law relating to ordinary lands a homestead entry is limited to 160 acres, but this area may sometimes be slightly exceeded where the tract is made up of irregular subdivisions. However, an entry of land which has been designated under one of the enlarged-homestead acts may contain 320 acres (see par. 43), and in western Nebraska 640 acres may be entered under the Kinkaid Act, explained in a special circular.

4. Settlement is initiated through the personal act of the settler placing improvements upon the land or establishing residence thereon; he thus gains the right to make entry for the land as against other persons. A settlement on any part of a surveyed quarter section

subject to homestead entry gives the right to enter all of that quarter section, but if a settler desires to initiate a claim to surveyed tracts which form a part of more than one technical quarter he should define his claim by placing some improvements on each of the smallest subdivisions claimed. When settlement is made on unsurveyed lands the settler must plainly mark the boundaries of all lands claimed. Within a reasonable time after settlement actual residence must be established on the land and continuously maintained. Entry should be made within three months after settlement upon surveyed lands or within that time after the filing in the local land office of the plat of survey of lands unsurveyed when settlement was made. Otherwise, the preference right of entry may be lost. Under the act of August 9, 1912 (37 Stat., 267), settlement right on not exceeding 320 acres of lands designated by the Secretary of the Interior as subject to entry under the enlarged homestead law may be obtained by plainly marking the exterior boundaries of all lands claimed, whether surveyed or unsurveyed, followed by the establishment of residence, except as to lands designated under section 6 of said acts, where residence is not required, but where the settlement right is required to be initiated by plainly marking the exterior boundaries of the land claimed and the placing and maintenance of valuable improvements thereon.

5. Soldiers' and sailors' declaratory statements may be filed in the land office for the district in which the lands desired are located by any persons who have been honorably discharged after 90 days' service in the Army or Navy of the United States during the War of the Rebellion or during the Spanish-American War or the Philippine insurrection. Declaratory statements of this character may be filed either by the soldier or sailor in person or through his agent acting under a proper power of attorney, but the soldier or sailor must make entry of the land in person, and not through his agent, within six months from the filing of his declaratory statement, or he may make entry in person without first filing a declaratory statement if he so chooses. If a declaratory statement is filed by a soldier or sailor in person, it must be executed by him before one of the officers mentioned in paragraph 16, in the county or land district in which the land is situated; if filed through an agent, the affidavit of the agent must be executed before one of the officers above mentioned, but the soldier's affidavit may be executed before any officer using a seal and authorized to administer oaths and not necessarily within the county or land district in which the land is situated. If the soldier dies without having filed application for entry following his declaratory statement, such entry may be made by his widow, or in case of her death or remarriage by his minor orphan children, but *not* by his heirs or devisees.

BY WHOM HOMESTEAD ENTRIES MAY BE MADE.

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

(*a*) Married women, except as hereinafter stated.

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

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

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

(*e*) Persons under the age of 21 years who are not the heads of families, except minors who make entry as heirs, as hereinafter mentioned.

(*f*) Persons who have acquired title to or are claiming, under any of the agricultural public-land laws, through settlement or entry made since August 30, 1890, any other lands which, with the lands last applied for, would amount in the aggregate to more than 320 acres. Exception is made, however, as to an entry under one of the enlarged homestead acts; such an entry may be allowed, provided that its area does not make up, with the party's other claims under the agricultural public-land laws, more than 480 acres, and that said other claims do not contain as much as 320 acres.

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

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

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

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

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

(*e*) Where a married woman made improvements and resided on the lands applied for before her marriage, she may enter them after marriage if her husband is not holding other lands under an unperfected homestead entry at the time of the marriage; and this last condition does not apply if each party has had compliance with the law for one year next before the marriage and neither one abandons the land prior to filing application for entry.

8. The marriage of an entrywoman will not defeat her right to acquire title to the land if she continues to reside thereon and otherwise comply with the law; but ordinarily the failure of her husband to live upon the homestead with her is treated as an evidence of bad faith, requiring testimony for its rebuttal. Husband and wife can not maintain separate residences on their respective homestead entries, and if at the time of marriage each is holding an unperfected entry on which residence must be had in order to acquire title, they can not hold both entries unless they are entitled to the benefits of the act of August 22, 1914, explained in the next paragraph.

9. Where a homestead entryman and a homestead entrywoman intermarry after each has fulfilled the requirements of the law for one year, the husband may (under the provisions of the act mentioned, Appendix No. 18) elect on which of the entries the home shall be made, after which their residence there shall constitute compliance with the residence requirements as to both homesteads. Instructions regarding the method of procedure under the act are found in a special circular.

10. Where the wife of a homestead settler or entryman, while residing upon the homestead claim and prior to the submission of final proof, has been abandoned and deserted by her husband for more than one year, she may, under the provisions of the act of

October 22, 1914 (Appendix No. 20), submit proof (by way of commutation or otherwise) on the entry and secure patent in her own name, being allowed credit for all residence and cultivation had and improvements made, either by herself or by her husband. As to the method of procedure under that act, a special circular is issued.

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

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

13. (*a*) A second homestead entry may be made by a person who commuted his first entry before June 5, 1900, or who paid the Indian price of the land first entered before May 17, 1900. See acts of June 5, 1900, and May 22, 1902 (Appendix No. 4), and act of May 17, 1900 (Appendix No. 3). Where a person has made homestead entry for 160 acres and perfected it in any other manner, his right both under the general homestead law and under the enlarged homestead act is exhausted, excepting only his right to make additional entry under the enlarged homestead act for a tract contiguous to the one first entered, provided both have been designated as subject thereto—and except that he may, under the Kinkaid Act, enter not exceeding 480 acres in western Nebraska.

(*b*) Where a person has made a homestead entry or entries but failed to perfect them, his right to make another homestead entry is governed by the act of Congress of September 5, 1914, which provides that the applicant must show to the satisfaction of the Secretary of the Interior that the prior entry or entries were made in good faith, were lost, forfeited, or abandoned because of matters beyond his control, and that he has not speculated in his right, nor committed a fraud or attempted fraud in connection with such prior entry or entries. A special circular is issued regarding the procedure under said act.

(*c*) Any person otherwise qualified, who has made final proof for less than 160 acres under the homestead laws, may make an additional entry for such an amount of public lands as will, when added to the amount for which he has already made proof, not exceed in the aggregate 160 acres; the applicant therefor must give such data as will serve to identify his first filing. Residence, cultivation, and improvement must be performed as in the case of an original entry.

14. An additional homestead entry may be made by a person for such an amount of public lands adjoining lands then owned and occupied by him under his original entry as will, when added to such adjoining lands, not exceed in the aggregate 160 acres. An entry of this kind may be made by any person who has not acquired title to and is not, at the date of his application, claiming under any of the agricultural public-land laws, through settlement or entry made since August 30, 1890, any other lands which, with the land then applied for, would exceed in the aggregate 320 acres, but the applicant will not be required to show any of the other qualifications of a homestead entryman. In connection with such an entry, all residence

and cultivation may be had (before or after its date) on the original tract, provided the entryman continues to own it during the period in question. As to additional entries under the enlarged homestead acts, see paragraph 47.

15. An adjoining farm entry may be made for such an amount of public lands lying contiguous to lands owned and resided upon by the applicant as will not, with the lands so owned and resided upon, exceed in the aggregate 160 acres; but no person will be entitled to make entry of this kind who is not qualified to make an original homestead entry. A person who has made one homestead entry, although for a less amount than 160 acres, and perfected title thereto, is not qualified to make an adjoining farm entry. In connection with an entry of this character, there must be shown the required amount of residence and cultivation after the date thereof, but both residence and cultivation may be had on the original tract.

HOW HOMESTEAD ENTRIES ARE MADE.

16. A homestead entry may be made by the presentation to the land office of the district in which the desired lands are situated of an application properly prepared on blank forms prescribed for that purpose and sworn to before either the register or the receiver, or before a United States commissioner, or the judge or clerk of a court of record, in the county or parish in which the land lies, or before any officer of the classes named who resides in the land district and nearest or most accessible to the land, although he may reside outside of the county in which the land is situated. An application is not acceptable if executed more than 10 days before its filing at the land office.

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

18. All applications by persons claiming as settlers must, in addition to the facts required in paragraph 17, state the date and describe the acts of settlement under which they claim a preferred right of entry, and applications by the widows, devisees, or heirs of settlers

must state facts showing the death of the settler and their right to make entry, that the settler was qualified to make entry at the time of his death, and that the heirs or devisees applying to enter are citizens of the United States or have declared their intentions to become such citizens, but they are not required to state facts showing any other qualifications of a homestead entryman, and the fact that they have made a former entry will not prevent them from making an entry as such heirs or devisees, nor will the fact that a person has made entry as the heir or devisee of the settler prevent him from making an entry in his own individual right if he is otherwise qualified to do so.

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

20. Applications for entry must be accompanied by the proper fee and commissions. (See par. 41.) A receipt for the money is at once issued, but this is merely evidence that the money has been paid and as to the purpose thereof. If the application is allowed and the entry placed of record, formal notice of this fact is issued on the prescribed form; if the application is rejected or suspended, notice of such action is forwarded to the applicant as soon as practicable.

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

21. If a homestead settler dies without having filed application for entry, the right to enter the land covered by his settlement passes to his widow. If there be no widow, said right passes to his heirs or devisees. See paragraph 4 for the general rules regarding settlement claims.

22. If a homestead entryman dies without having submitted final proof, his rights under the entry pass to his widow, or, if there be none, then to his heirs or devisees. However, if all the heirs be minor children of the entryman or entrywoman, and their other parent be dead, the entry is not subject to devise. In such a case the right to a patent vests in the children at once upon proof only of the death of both parents and that they are the only children of the homesteader, provided, as to a male homesteader, that there be no widow. The law provides, in the alternative, that the executor, administrator, or guardian may, within two years after the death of the surviving parent, sell the land for the benefit of the children, in accordance with the law of the State where they are domiciled. In such cases it is required that there be furnished record evidence of an order for the sale made by a court of competent jurisdiction. In any event, publication and posting of notice of intention to submit proof or to ask issuance of patent to the purchaser is required.

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

24. The unmarried widow, or, in case of her death or remarriage, the minor children of soldiers and sailors who were honorably discharged after 90 days' actual service during the War of the Rebellion, the Spanish-American War, or the Philippine insurrection may file a declaratory statement in the manner explained in paragraph 5 and make entry as such widow or minor children, if the soldier or sailor died without making entry or failed to perfect an entry and was, at the time of his death, qualified to make another. The minor children must make a joint entry through their duly appointed guardian. If the widow files a declaratory statement and dies without having applied for entry, entry may be made on behalf of the minor children, but *not* by her devisees or other heirs.

RESIDENCE AND CULTIVATION REQUIRED UNDER THE HOMESTEAD LAWS.

25. A homestead entryman must (except as to an adjoining farm homestead entry or an additional entry for land adjoining that first entered) establish residence upon the tract within six months after date of the entry, unless an extension of time is allowed, as explained in paragraph 35, and must maintain residence there for a period of three years. However, he may have credit for residence as well as cultivation before the date of entry if the land was, during the period in question, subject to appropriation by him or included in an entry against which he had initiated a contest resulting afterwards in its cancellation. Moreover, he may absent himself for a portion or portions of each year after making entry and establishing residence, as more fully explained in paragraph 26.

When proof is submitted it must be shown that the homesteader is a citizen of the United States, provided, however, that a homestead entrywoman who is a citizen when she makes her filing and thereafter marries an alien need not show that her husband is an American citizen, but must show that he is entitled to become one.

26. During each year, beginning with the date of establishment of actual residence, the entryman may absent himself from the land for not more than two periods, aggregating as much as five months. In order to be entitled to such absences, the entryman need not file applications therefor, but must each time he leaves the land file at the local land office (by mail or otherwise) notice of the time of leaving; and upon his return to the land he must notify said office of the date thereof. If he has returned after an absence of less than five months and filed notice of his return, he may, without any intervening residence, again absent himself—pursuant to new notice—for

the remaining part of five months within the residence year. However, two absences in different residence years, reckoned from the date when residence was established, must be separated by substantial periods if they together make up more than five months.

27. (*a*) Cultivation of the land for a period of three years is required, and this must generally consist of actual breaking of the soil, followed by planting, sowing of seed, and tillage for a crop other than native grasses. However, tilling of the land, or other appropriate treatment, for the purpose of conserving the moisture with a view of making a profitable crop the succeeding year, will be deemed cultivation within the terms of the act (without sowing of seed), where that manner of cultivation is necessary or generally followed in the locality.

During the second year not less than one-sixteenth of the area entered must be actually cultivated, and during the third year, *and until final proof*, cultivation of not less than one-eighth must be had; these requirements are applicable to all homesteads, under the general law and under the enlarged homestead acts, excepting those under section 6 of said acts (see pars. 48 and 49); they do not apply to entries under the reclamation act or under the so-called Kinkaid Act, applicable to Nebraska.

(*b*) The Secretary of the Interior is authorized to reduce the requirements as to cultivation. This may be done, if the land entered is so hilly or rough, the soil so alkaline, compact, sandy, or swampy, or the precipitation of moisture so light as not to make cultivation of the required amounts practicable, or if the land is generally valuable only for grazing. An application for reduction upon the grounds indicated must be filed at the proper local land office on the form prescribed therefor, and should set forth in detail the special physical conditions of the land on which claimant bases his right to a reduction.

A reduction may be allowed also if the entryman, after making entry and establishing residence, has met with misfortune which renders him reasonably unable to cultivate the prescribed area. In this class of cases an application for reduction is not to be filed, but notice of the misfortune and of its nature must be submitted to the register of the local land office, under oath, within 60 days after its occurrence; upon satisfactory proof regarding the misfortune at the time of submitting final proof a reduction in area of cultivation during the period of disability following the misfortune may be permitted.

(*c*) The homestead entryman must have a habitable house upon the land entered at the time of submitting proof. Other improvements should be of such character and amount as are sufficient to show good faith.

(*d*) By paragraph 15 of the instructions of November 1, 1913, the Secretary of the Interior (under his statutory authority to reduce the requirements as to cultivation) has prescribed the following rule to govern action on proofs submitted under the new law, where the homestead entry was made prior to June 6, 1912:

> Respecting cultivation necessary to be shown upon such an entry, in all cases where, upon considering the whole record, the good faith of the entryman appears, the proof will be acceptable if it shows cultivation of at least one-sixteenth for one year and of at least one-eighth for the next year and each succeeding year until final proof, without regard to the particular year of the homestead period in which the cultivation of the one-sixteenth was performed.

(*e*) Entries made prior to June 6, 1912, may be perfected either by showing compliance with the requirements of the three-year act of June 6, 1912, or with the provisions of the old homestead law. The former law required five years' residence, there being no specific provision regarding the extent to which the entryman might absent himself; it made no requirement of cultivation of a specific proportion of the area of the entry, but the claimant was obliged to show such cultivation as was reasonable under the circumstances of the case.

(*f*) Where a qualified person settled upon a tract of unsurveyed public land, subject to settlement, prior to the passage of the act of June 6, 1912, but made entry after its enactment or may hereafter make entry, he may submit proof under said act or under the law existing when he established his residence upon the land. The filing of a formal election is not required, but the designation of three-year or five-year proof in the notice to submit same may constitute such election.

28. A soldier or sailor of one of the classes mentioned in paragraph 5 who makes entry must begin his residence and cultivation of the land entered by him within six months from the date of filing his declaratory statement, but if he makes entry without filing a declaratory statement he must begin his residence within six months after the date of the entry. Thereafter he must continue both residence and cultivation for such period as will, when added to the time of his military or naval service (under enlistment or enlistments covering war periods), amount to three years; but if he was discharged on account of wounds or disabilities incurred in the line of duty, credit for the whole term of his enlistment may be allowed; however, no patent will issue to such soldier or sailor until there has been residence and cultivation by him for at least one year, nor until a habitable house has been placed upon the land. If the soldier's military service was sufficient in duration to require only one year's residence and improvement upon the claim, the entryman must perform such an amount of cultivation as to evidence his good faith as a homestead claimant. If his military service was of such limited duration as to require more than one year's residence upon the claim he will be required to perform cultivation to the extent of one-sixteenth of the area of the entry, beginning with the second year thereof, and if proof is not submitted before the third year, he must also cultivate at least one-eighth, beginning with the third year of the entry and thereafter until final proof.

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

29. A soldier or sailor making entry during his enlistment in time of peace is not required to reside personally on the land, but may receive patent if his family maintain the necessary residence and cultivation until the entry is 3 years old or until it has been commuted; but a soldier or sailor is not entitled to credit on account of his military service in time of peace. If such soldier has no family, there is no way by which he can make entry and acquire title during his enlistment in time of peace.

30. Widows and minor orphan children of soldiers and sailors who make entry based on the husband's or father's military or naval

service must conform to the requirements specified for the soldier or sailor in paragraph 28.

31. Persons who make entry as the widows, heirs, or devisees of settlers are not required to reside upon the land entered by them, but they must improve and cultivate it for such period as, added to the time during which the settler resided on and cultivated the land, will make the required period of three years, and the cultivation must be to the extent required by the law under which the proof is offered. Commutation proof may, however, be made upon showing 14 months' actual residence and cultivation had either by the settler or the heirs, devisee, or widow, or in part by the settler and in part by the widow, heirs, or devisee.

32. Persons succeeding as widow, heirs, or devisees to the rights of a homestead entryman are not required to reside upon the land covered by the entry, but they must cultivate it as required by law for such period as will, added to the entryman's period of compliance with the law, aggregate the required term of three years. They are allowed a reasonable time after the entryman's death within which to begin cultivation, proper regard being had to the season of the year at which said death occurred. If they desire to commute the entry they must show a 14 months' period of such residence and cultivation on the part of themselves or the entryman, or both, as would have been required of him had he survived. They must in all cases show that they are citizens of the United States, regardless of the question whether the entryman was himself a citizen, unless they are commuting an entry made before June 6, 1912, when a declaration of intention is sufficient.

33. Homestead entrymen are not entitled to any special privileges whatsoever in connection with their claims by reason of the fact that they are appointed or elected to public offices, the duties of which require their residence elsewhere than on the homesteads. The sole exception to this rule is that a person who made entry before June 6, 1912, and was elected to such office after establishing residence upon the land in good faith may be accorded credit for the periods of his absences if he submits proof under the old five-year law.

34. Neither residence nor cultivation by an insane homestead entryman is necessary after he becomes insane, if such entryman made entry and established residence before he became insane and complied with the requirements of the law up to the time his insanity began. Proof on the entry may be submitted by his duly appointed guardian or committee.

35. (*a*) Where, for climatic reasons, or on account of sickness, or other unavoidable cause, residence can not be established on the land within six months after the date of the entry, additional time, not exceeding six months, may be allowed. An application for such extension must include the affidavits of the entryman and two witnesses acquainted with the facts, which may be executed before any officer authorized to administer oaths and having a seal of office, though outside of the county or land district where the entry is situated. The application should set forth in detail the grounds upon which it is based, including a statement as to the probable duration of the hindering causes and the date when the claimant may reasonably expect to establish his residence.

If the extension is granted, it protects the entry from contest on the ground of the homesteader's failure to establish residence within the first six-months' period, unless it be shown that the order for extension was fraudulently obtained. But the failure of the entryman to apply for an extension of time does not forfeit his right to show, in defense of a contest, the existence of conditions which might have been made the basis for such an application.

(*b*) Leave of absence for one year or less may be granted by the register and receiver of the local land office to entrymen who have established actual residence on the lands in cases where total or partial failure or destruction of crops, sickness, or other unavoidable casualty has prevented the entryman from supporting himself and those dependent on him by cultivation of the land. Application for such leave of absence must be sworn to by the applicant and corroborated by at least one witness in the land district or county within which the entered lands are located before an officer authorized to administer oaths and having a seal. It must describe the entry and show the date of establishing residence on the land and the extent and character of the improvements and cultivation performed by applicant. It must also set forth fully the facts on which the claimant bases his right to leave of absence, and where sickness is given as the reason a certificate signed by a reputable physician should be furnished if practicable. The period during which a homesteader is absent from his claim pursuant to a leave duly granted can not be counted in his favor.

COMMUTATION OF HOMESTEAD ENTRIES.

36. (*a*) All original, second, and additional homestead, and adjoining farm entries may be commuted, except such entries as are made under particular laws which forbid their commutation.

(*b*) The entryman, or his statutory successor, must, as a general thing, show substantially continuous residence upon the land, maintained until the submission of the proof or filing of notice of intention to submit same, the existence of a habitable house upon the claim, and cultivation of not less than one-sixteenth of its acreage. However, the proof may be accepted where actual residence for the required period is shown, even though slightly broken, provided it be in reasonably compact periods; and the failure to continue the residence until filing of notice to submit proof will not prevent its acceptance if the Land Department be fully satisfied of entryman's good faith, and provided no contest or adverse proceeding shall have been initiated for default in residence, or other good cause, prior to filing such notice. Credit for residence and cultivation before the date of entry may be allowed under the conditions, explained in paragraph 25, as to three-year proof.

(*c*) Where a contest is initiated against an entry, prior to filing of notice to submit commutation proof, the entry will be considered under sections 2291 and 2297, Revised Statutes, as amended, and the homesteader's absence will not be excused upon the ground that he has complied with the law for 14 months and is under no obligation to further reside upon the land. However, a contest for abandonment can not be maintained if the absence after the 14 months' residence is pursuant to a leave of absence regularly and properly granted under the act of March 2, 1889, or under conditions which

would have entitled the entryman to such leave upon formal application therefor, and such absence will not prevent the submission of acceptable commutation proof.

(*d*) An entryman submitting commutation proof may add together, to make up the 14 months, periods of residence before and after an absence under a leave of absence regularly granted, or an absence of not exceeding five months of which he had given notices as provided by the act of June 6, 1912.

(*e*) In cases where the entry was made before June 6, 1912, commutation proof may be submitted under the law theretofore in force.

(*f*) A person submitting commutation proof must, in addition to certain fees, pay the price of the land; this is ordinarily $1.25 per acre, but is $2.50 per acre for lands within the limits of certain railroad grants. The price of certain ceded Indian lands varies according to their location, and inquiry should be made regarding each specific tract.

(*g*) Where the entry was made after June 6, 1912, the claimant must show full citizenship, as in case of three-year proof; if the entry was made before that date, it is sufficient if the claimant has declared his intention to become a citizen.

(*h*) The provisions of law explained in paragraph 27 (*f*) apply to commutation proof also.

(*i*) Commutation proof can not be made on homestead entries allowed under the act of April 28, 1904 (33 Stat., 547), known as the Kinkaid Act; entries under the reclamation act of June 17, 1902 (32 Stat., 388); entries under the enlarged homestead acts (post, par. 43 et seq.); entries allowed on coal lands under the act of June 22, 1910 (36 Stat., 583), so long as the land is withdrawn or classified as coal; additional entries allowed under the act of April 28, 1904 (33 Stat., 527, Appendix No. 4); second entries allowed under the act of June 5, 1900 (31 Stat., 267, Appendix No. 4); second entries allowed under the act of May 22, 1902 (32 Stat., 203, Appendix No. 4), when the former entry was commuted; or entries within forests, under the act of June 11, 1906 (34 Stat., 233).

37. Either final or commutation proof may be made at any time when it can be shown that there is a habitable house upon the land and that the required residence and cultivation have been had. Proof on an entry made before June 6, 1912, may be submitted within seven years after its date, though it be submitted under the three-year act; proof on an entry made after June 6, 1912, must be submitted within five years, except under the conditions explained in paragraph 27 *f*. Failure to submit proof within the proper period is ground for cancellation of the entry unless good reason for the delay appears; satisfactory reasons being shown, final certificate may be issued, and the case referred to the board of equitable adjudication for confirmation. See also paragraph 27*e*.

38. (*a*) Final proof must be made by the entrymen personally or their widows, heirs, or devisees, and can not be made by agents, attorneys in fact, administrators, or executors, except as explained in paragraphs 10, 22, and 34. Final proof can be made only by citizens of the United States.

(*b*) Where entries are made and proof offered for minor orphan children of soldiers or sailors the minors may be represented by their guardian.

HOW PROOFS MAY BE MADE.

39. Final or commutation proofs may be made before any of the officer mentioned in paragraph 16 as being authorized to administer oaths to applicants.

Any person desiring to make homestead proof should first forward a written notice of his desire to the register and receiver of the land office, giving his post-office address, the number of his entry, the name and official title of the officer before whom he desires to make proof, the place at which the proof is to be made, and the name and post-office addresses of at least four of his neighbors who can testify from their own knowledge as to facts which will show that he has in good faith complied with all the requirements of the law.

40. The register will issue a notice naming the time and place for submission of proof and cause same to be published at entryman's expense for 30 days preceding submission of proof in the newspaper designated by the register. If this be a daily paper, the publication must be inserted in 30 consecutive issues; if daily except Sunday, in 26; if weekly, in 5; and if semiweekly, in 9 consecutive issues.

The first day of publication must be at least 30 days before the date set for proof, and a copy of the notice must be posted in a conspicuous place in the office of the register for at least 30 days before said date.

The homesteader must arrange with the publisher for publication of the notice of intention to make proof and make payment therefor directly to him. The register will be responsible for the correct preparation of the notice.

On the day named in the notice the entryman must appear before the officer designated to take proof with at least two of the witnesses named in the notice; but if for any reason the entryman and his witnesses are unable to appear on the date named, the officer should continue the case from day to day until the expiration of 10 days, and the proof may be taken on any day within that time when the entryman and his witnesses appear, but they should, if it is possible to do so, appear on the day mentioned in the notice.

FEES ON ENTRIES AND FINAL PROOFS.

41. *Fees and commissions.*—When a homesteader applies to make entry he must pay in cash to the receiver a fee of $5 if his entry is for 81 acres or less, or $10 if he enters more than 81 acres. And in addition to this fee he must pay, both at the time he makes entry and final proof, a commission of $1 for each 40-acre tract entered outside of the limits of a railroad grant and $2 for each 40-acre tract entered within such limits. Fees under the enlarged-homestead act are the same as above, but the commissions are based upon the area of the land embraced in the entry. (See par. 43.) Where an entry is commuted no commissions are payable, except in connection with certain ceded Indian lands, as to which inquiry must be made specifically at the proper local land offices. On all final proofs made before either the register or receiver, or before any other officer authorized to take proofs, the register and receiver are entitled to receive 15 cents for each 100 words reduced to writing, and no proof can be accepted or approved until all fees have been paid.

In all cases where lands are entered under the homestead laws in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming the commissions due to the register and receiver on entries and final proofs, and the testimony fees under final proofs, are 50 per cent more than those above specified, but the entry fee of $5 or $10, as the case may be, is the same in all the States.

Remittances of moneys to the local land offices must be made in cash or currency; but certified checks when drawn in favor of the receiver of public moneys on National and State banks and trust companies, which can be cashed without cost to the Government, can be used. Likewise, United States post-office orders are acceptable when they are made payable to the receiver and are drawn on the post office at the place where the receiver is located.

ALIENATION OF LAND BY HOMESTEADER.

42. The alienation of all or any part of the land embraced in a homestead prior to making proof, except for the public purposes mentioned in section 2288, Revised Statutes (see Appendix No. 1), will prevent the entryman from making satisfactory proof, since he is required to swear that he has not alienated any part of the land except for the purposes mentioned in section 2288, Revised Statutes.

A mortgage by the entryman prior to final proof for the purpose of securing money for improvements, or for any other purpose not inconsistent with good faith, is not considered such an alienation of the land as will prevent him from submitting satisfactory proof. In such a case, however, should the entry be canceled for any reason prior to patent, the mortgagee would have no claim on the land or against the United States for the money loaned.

Alienation after proof and before patent.—The right of a homestead entryman to patent is not defeated by the alienation of all or a part of the land embraced in his entry after the submission of final proof and prior to patent, provided the proof submitted is satisfactory. Such an alienation is, however, at the risk of the entryman, for if the reviewing officers of the Land Department subsequently find the final proof so unsatisfactory that it must be wholly rejected and new proof required, the entryman can not then truthfully make the nonalienation affidavit required by section 2291, Revised Statutes, and his entry must in consequence be canceled. The purchaser takes no better title than the entryman had, and if the entry is canceled the purchaser's title must necessarily fail.

ENLARGED HOMESTEADS.

43. The acts of February 19, 1909 (extended by later legislation to additional States), and of June 17, 1910 (Appendix No. 13), provide for the making of homestead entries for areas of not exceeding 320 acres of public land in the States of Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, designated by the Secretary of the Interior as nonmineral, nontimbered, nonirrigable. As to Idaho, the act of June 17, 1910, provides that the lands must be "arid."

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

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

44. *Designation of lands.*—From time to time lists designating the lands which are subject to entry under these acts are sent to the registers and receivers in the States affected, and they are instructed immediately upon the receipt of such lists to note the same upon their tract books. In the order of designation, a date is fixed on which it will become effective, and at that time the land becomes subject to entry under the act.

The act of Congress of March 4, 1915, provides that a person, pursuant to whose petition unappropriated land is designated under the enlarged-homestead act, may be allowed a preference right of entry therefor. (See Appendix No. 17.) The instructions prescribing the procedure under said act are found in a special circular.

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

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

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

46. Applications to make entry under these acts must be submitted on forms prescribed by the General Land Office; in case of an original entry, Form 4–003, and of an additional entry, Form 4–004.

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

47. (*a*) Under section 3 of the enlarged-homestead acts a person who has entered less than 320 acres of land which is of the character described therein, and which has been so designated by the Secretary of the Interior, may make entry of adjoining lands, also so designated, which will not, together with the tract first entered, exceed

320 acres in area or have a greater extreme length than 1½ miles. Attention of persons desiring to petition for designation of lands with a view to such entry is especially directed to the fact that an additional entry can not be allowed unless the tract first entered, as well as the one sought to be added, is designated, and therefore the petition should in all cases cover so much of both tracts as has not already been designated. Where proof has not already been submitted on the original claim at the time application for additional entry is filed, residence upon and cultivation of the tract first entered will be accepted as equivalent to residence upon and cultivation of the additional.

(*b*) Where a person prior to June 6, 1912, made entry under the general provisions of the homestead laws, and before submission of proof on said entry made an additional entry under said section 3, the following rules govern the requirements as to the cultivation and residence to be shown by him on submission of proof:

(*c*) He may show compliance with the requirements of the law applicable to his original entry, and that, after the date of additional entry, he cultivated, in addition to such cultivation as was relied upon and used in perfecting title to the original entry, an amount equal to one-sixteenth of the area of the additional entry for one year, not later than the second year of such additional entry, and one-eighth the following year and each succeeding year until proof submitted; however, the rules explained in paragraph 27 (*d*) are applicable to such cases. The cultivation in support of the additional entry may be maintained upon either entry.

(*d*) When proof is submitted on both entries at the same time, he may show the cultivation of an amount equal to one-sixteenth of the combined area of the two entries for one year, increased to one-eighth the succeeding year, and that such latter amount of cultivation has continued until offer of proof. If cultivation in these amounts can be shown, proof may be submitted without regard to the date of the additional entry, i. e., the required amount of cultivation may have been performed in whole or in part on the original entry before the additional entry was made, and proof on the additional need be deferred only until the showing indicated can be made. Such combined proof may be submitted not later than seven years from the date of the original entry.

(*e*) In instances where proof is first made on the original entry meeting the requirement of the homestead law respecting residence, no further showing in this particular will be exacted in making proof upon the additional entry; neither will a period of residence be exacted in proof upon the combined entry in excess of that required under the original entry.

(*f*) As above indicated, persons who have already submitted proof on their original entries are not, for that reason, deprived of the privilege of making additional entries. They are, however, required to show that they still own and occupy (not necessarily reside upon) the lands first entered; in submitting proof on the additional filings, they are accorded credit for all residence on either tract, but must show cultivation of the additional tract itself to the extent and for the period (after the date of the additional entry) required by law. A special circular is issued under the act of March 3. 1915, allowing additional entries in such cases.

ENTRIES NOT REQUIRING RESIDENCE.

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

During the second year of the entry at least one-eighth of the area must be cultivated, and during the third, fourth, and fifth years, and until submission of final proof, one-fourth of the area entered must be cultivated. Proof may be submitted on entries of this class within seven years after their dates.

The rules relating to petitions for designation of lands, referred to in paragraphs 44 and 47, apply to section 6 of the enlarged homestead act; applications to make entry thereunder will not be received until the date fixed in the order designating the land as subject to entry under said section, except when accompanied by petitions for designation, complying with the rules with reference thereto.

49. The sixth section of the act of June 17, 1910 (36 Stat., 531), provides for designation of 320,000 acres of land in the State of Idaho of the same character contemplated by section 6 of the act of February 19, 1909. The law as to entries for these lands and manner of perfecting title is the same, except in one respect, as that referring to the Utah lands, and the provisions of the last paragraph hereof apply to the Idaho act except on that point. The Idaho act provides that:

> The entryman shall reside not more than 20 miles from (the) land, and be engaged personally in preparing the soil for seed, seeding, cultivating, and harvesting crops upon the land during the usual seasons for such work, unless prevented by sickness or other unavoidable cause.

It is further provided, however, by the act that:

> Leave of absence from a residence established under this section may be granted upon the same terms and conditions as are required of other homestead entrymen.

50. The acts provide that any person applying to enter land under the provisions thereof shall make and subscribe before the proper officer an affidavit, etc. The term "proper officer," as used herein, is held to mean any officer authorized to take affidavits or proof in homestead cases.

CLAY TALLMAN, *Commissioner.*

Approved:
BO SWEENEY,
Assistant Secretary.

APPENDIX.

(No. 1.)

UNITED STATES REVISED STATUTES.

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

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

SEC. 2290. That any person applying to enter land under the preceding section shall first made and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family, or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation, and that he or she will faithfully and honestly endeavor to comply with all the requirements of law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that he or she is not acting as agent of any person, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered, or any part thereof, or the timber thereon; that he or she does not apply to enter the same for the purpose of speculation, but in good faith to obtain a home for himself, or herself, and that he or she has not directly or indirectly made, and will not make, any agreement or contract in any way or manner, with any person or persons, corporation, or syndicate whatsoever, by which the title which he or she might acquire from the Government of the United

States should inure, in whole or in part, to the benefit of any person, except himself, or herself, and upon filing such affidavit with the register or receiver on payment of five dollars, when the entry is of not more than eighty acres, and on payment of ten dollars when the entry is for more than eighty acres, he or she shall thereupon be permitted to enter the amount of land specified. (As amended by act Mar. 3, 1891.)

SEC. 2291. [This section, as amended by the act of June 6, 1912, is given in Appendix No. 14. Prior to the passage of that act, section 2291 read as follows:]

SEC. 2291. No certificate, however, shall be given, or patent issued therefor, until the expiration of five years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry; or, if he be dead, his widow; or, in case of her death, his heirs or devisee; or, in case of a widow making such entry, her heirs or devisee, in case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States; then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent as in other cases provided by law.

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

SEC. 2293. 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. 2294. That hereafter all proofs, affidavits, and oaths of any kind whatsoever required to be made by applicants and entrymen under the homestead, preemption, timber-culture, desert-land, and timber and stone acts, may, in addition to those now authorized to take such affidavits, proofs, and oaths, be made before any United

States commissioner or commissioner of the court exercising Federal jurisdiction in the Territory or before the judge or clerk of any court of record in the county, parish, or land district in which the lands are situated: *Provided*, That in case the affidavits, proofs, and oaths hereinbefore mentioned be taken out of the county in which the land is located the applicant must show by affidavit, satisfactory to the Commissioner of the General Land Office, that it was taken before the nearest or most accessible officer qualified to take said affidavits, proofs, and oaths in the land districts in which the lands applied for are located; but such showing by affidavit need not be made in making final proof if the proof be taken in the town or city where the newspaper is published in which the final proof notice is printed. The proof, affidavit, and oath, when so made and duly subscribed, or which may have heretofore been so made and duly subscribed, shall have the same force and effect as if made before the register and receiver, when transmitted to them with the fees and commissions allowed and required by law. That if any witness making such proof, or any applicant making such affidavit or oath, shall knowingly, willfully, or corruptly swear falsely to any material matter contained in said proofs, affidavits, or oaths he shall be deemed guilty of perjury, and shall be liable to the same pains and penalties as if he had sworn falsely before the register. That the fees for entries and for final proofs, when made before any other officer than the register and receiver, shall be as follows:

"For each affidavit, twenty-five cents.

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

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

"Any officer demanding or receiving a greater sum for such service shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by a fine not exceeding one hundred dollars." (As amended by act Mar. 4, 1904, 33 Stat., 59.)

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

SEC. 2297. [This section as amended by the act of June 6, 1912, is given in Appendix No. 14. Prior to the passage of that act section 2297 read as follows:]

SEC. 2297. If, at any time after the filing of the affidavit, as required in section twenty-two hundred and ninety, and before the expiration of the five years mentioned in section twenty-two hundred and ninety-one, it is proved, after due notice to the settler, to the satisfaction of the register of the land office, that the person having filed such affidavit has actually changed his residence, or abandoned the land for more than six months at any time, then and in that event the land so entered shall revert to the Government: *Provided*, That where there may be climatic reasons the Commissioner of the General Land Office may, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence on said land under such rules and regulations as he may prescribe. (As amended by act Mar. 3, 1881.)

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

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

* * * * * * *

SEC. 2301. Nothing in this chapter shall be so construed as to prevent any person who shall hereafter avail himself of the benefits of section twenty-two hundred and eighty-nine from paying the minimum price for the quantity of land so entered at any time after the expiration of fourteen calendar months from the date of such entry, and obtaining a patent therefor, upon making proof of settlement and of residence and cultivation for such period of fourteen months, and the provision of this section shall apply to lands on the ceded portion of the Sioux Reservation by act approved March second, eighteen hundred and eighty-nine, in South Dakota, but shall not relieve said settlers from any payments now required by law. (As amended by act Mar. 3, 1891, 26 Stat., 1095.)

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

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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 who has served, is serving, or shall have served 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 Mar. 1, 1901, 31 Stat., 847.)

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 of Mar. 1, 1901, 31 Stat., 847.)

* * * * * * *

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 preemption cases; but such claimant in person shall within the time prescribed make his actual entry, commence settlement and improvements on the same, and thereafter fulfill the requirements of the law.

(No. 2.)

THREE HUNDRED AND TWENTY ACRE LIMITATION.

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

* * * * * * *

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

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

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

* * * * * * *

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

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

(No. 3.)

FREE HOMESTEAD ACT.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all settlers under the homestead laws of the United States upon the agricultural public lands, which have already been opened to settlement, acquired

prior to the passage of this act by treaty or agreement from the various Indian tribes, who have resided or shall hereafter reside upon the tract entered in good faith for the period required by existing law, shall be entitled to a patent for the land so entered upon the payment to the local land officers of the usual and customary fees, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry: *Provided*, That the right to commute any such entry and pay for said lands in the option of any such settler and in the time and at the prices now fixed by existing laws shall remain in full force and effect. * * *

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

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

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

(No. 4.)

ADDITIONAL HOMESTEAD ENTRIES.

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

* * * * * * *

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

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

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

* * * * * * *

SEC. 2. That any homestead settler who has heretofore entered, or may hereafter enter, less than one-quarter section of land may enter other and additional land lying contiguous to the original entry which shall not, with the land first entered and occupied, exceed in the aggregate one hundred and sixty acres, without proof of residence upon and cultivation of the additional entry; and if final proof of settlement and cultivation has been made for the original entry when the additional entry is made, then the patent shall issue without further proof: *Provided*, That this section shall not apply to or for the benefit of any person who does not own and occupy the lands covered by the original entry: *And provided*, That if the original entry should fail for any reason prior to patent, or should appear to be illegal or fraudulent, the additional entry shall not be permitted, or, if having been initiated, shall be canceled.

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

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

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

* * * * * * *

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

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

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

* * * * * * *

SEC. 2. That any person who, prior to the passage of an act entitled "An act providing for free homesteads on the public lands for actual and bona fide settlers, and reserving the public lands for that purpose," approved May seventeenth, nineteen hundred, having made a homestead entry and perfected the same and acquired title to the land by final entry by having paid the price provided in the law opening the land to settlement, and who would have been entitled to the provisions of the act before cited had final entry not been made prior to the passage of said act, may make another homestead entry of not exceeding one hundred and sixty acres of any of the public lands in any State or Territory subject to homestead entry: *Provided*, That any person desiring to make another entry under this act will be required to make affidavit, to be transmitted with the other filing papers now required by law, giving the description of the tract formerly entered, date and number of entry, and name of the land office

where made, or other sufficient data to admit of readily identifying it on the official records: *And provided further*, That said person has all the other proper qualifications of a homestead entryman: *And provided also*, That commutation under section twenty-three hundred and one of the Revised Statutes or any amendment thereto, or any similar statute, shall not be permitted of an entry made under this act, excepting where the final proof, submitted on the former entry hereinbefore described, shows a residence upon the land covered thereby for the full period of five years or such term of residence thereon as added to any properly credited military or naval service shall equal such period of five years.

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

(No. 5.)

SECOND HOMESTEAD ENTRIES.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any person otherwise duly qualified to make entry or entries of public lands under the homestead or desert-land laws, who has heretofore made or may hereafter make entry under said laws, and who, through no fault of his own, may have lost, forfeited, or abandoned the same, or who may hereafter lose, forfeit, or abandon same, shall be entitled to the benefits of the homestead or desert-land laws as though such former entry or entries had never been made: *Provided*, That such applicant shall show to the satisfaction of the Secretary of the Interior that the prior entry or entries were made in good faith, were lost, forfeited, or abandoned because of matters beyond his control, and that he has not speculated in his right nor committed a fraud or attempted fraud in connection with such prior entry or entries.

Approved September 5, 1914. (38 Stat., 712.)

(No. 6.)

RIGHTS OF SETTLERS.

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

* * * * * * *

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

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

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

* * * * * * *

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

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

(No. 7.)

HOMESTEAD ENTRY BY MARRIED WOMAN.

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

"Where an unmarried woman who has heretofore settled, or may hereafter settle, upon a tract of public land, improved, established, and maintained a bona fide residence thereon, with the intention of appropriating the same for a home, subject to the homestead law, and has married, or shall hereafter marry, before making entry of said land, or before making application to enter said land, she shall not, on account of her marriage, forfeit her right to make entry and receive patent for the land: *Provided*, That she does not abandon her residence on said land, and is otherwise qualified to make homestead entry: *Provided further*, That the man whom she marries is not, at the time of their marriage, claiming a separate tract of land under the homestead law.

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

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

(No. 8.)

SETTLERS WHO BECOME INSANE.

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

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

(No. 9.)

LEAVES OF ABSENCE.

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

* * * * * * *

SEC. 3. That whenever it shall be made to appear to the register and receiver of any public land office, under such regulations as the

Secretary of the Interior may prescribe, that any settler upon the public domain under existing law is unable, by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty, to secure a support for himself, herself, or those dependent upon him or her upon the lands settled upon, then such register and receiver may grant to such a settler a leave of absence from the claim upon which he or she has filed for a period not exceeding one year at any one time, and such settler so granted leave of absence shall forfeit no rights by reason of such absence: *Provided*, That the time of such actual absence shall not be deducted from the actual residence required by law.

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

(No. 10.)

FINAL PROOF NOTICE.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for preemption or homestead entries, such person shall file with the register of the proper land office a notice of his or her intention to make such proof, stating therein the description of lands to be entered and the names of the witnesses by whom the necessary facts will be established. Upon the filing of such notice the register shall publish a notice that such application has been made once a week for the period of thirty days in a newspaper to be by him designated as published nearest to such land, and he shall also post such notice in some conspicuous place in his office for the same period. Such notice shall contain the names of the witnesses as stated in the application. At the expiration of said period of thirty days the claimant shall be entitled to make proof in the manner heretofore provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions.

Approved March 3, 1879. (20 Stat., 472.)

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

* * * * * * *

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

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

(No. 11.)

PENALTIES FOR DESTROYING CORNER MONUMENTS.

UNITED STATES CRIMINAL CODE—CHAP. 4, SEC. 57. Whoever shall wilfully destroy, deface, change, or remove to another place any section corner, quarter-section corner, or meander post on any Govern-

ment line of survey, or shall wilfully cut down any witness tree or any tree blazed to mark the line of a Government survey, or shall wilfully deface, change, or remove any monument or bench mark of any Government survey, shall be fined not more than two hundred and fifty dollars, or imprisoned not more than six months, or both.

(No. 12.)

RELINQUISHMENTS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when a preemption, homestead, or timber-culture claimant shall file a written relinquishment of his claim in the local land office the land covered by such claim shall be held as open to settlement and entry without further action on the part of the Commissioner of the General Land Office.

* * * * * * *

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

(No. 13.)

ENLARGED HOMESTEADS.

The act of February 19, 1909 (35 Stat., 639), was amended by the acts of June 13, 1912 (37 Stat., 132), March 3, 1915 (38 Stat., 953), and March 4, 1915 (38 Stat., 1162), California, Kansas, North Dakota, and South Dakota being inserted among the States affected thereby; it was further amended by the acts of February 11, 1913 (37 Stat., 666), and March 3, 1915 (38 Stat., 956), by inserting new sections, numbered 3 and 4. The act as it now stands reads as follows:

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

SEC. 2. That any person applying to enter land under the provisions of this act shall make and subscribe before the proper officer an affidavit as required by section twenty-two hundred and ninety of the Revised Statutes, and in addition thereto shall make affidavit that the land sought to be entered is of the character described in section one of this act, and shall pay the fees now required to be paid under the homestead laws.

SEC. 3. That any person who has made, or shall make, homestead entry of lands of the character herein described, and who has not submitted final proof thereon, or who having submitted final proof still owns and occupies the land thus entered, shall have the right to enter public lands, subject to the provisions of this act, contiguous to his first entry, which shall not, together with the original entry, exceed three hundred and twenty acres: *Provided*, That the land originally entered and that covered by the additional entry shall have first been designated as subject to this act, as provided by section one thereof.

SEC. 4. That at the time of making final proof, as provided in section twenty-two hundred and ninety-one of the Revised Statutes, the entryman under this act shall, in addition to the proofs and affidavits required under said section, prove by himself and two credible witnesses that at least one-sixteenth of the area embraced in such entry was continuously cultivated for agricultural crops other than native grasses, beginning with the second year of the entry, and that at least one-eighth of the area embraced in the entry was so continuously cultivated beginning with the third year of the entry: *Provided*, That any qualified person who has heretofore made, or who hereafter makes, additional entry under the provisions of section three of this act to an entry upon which final proof has not been made, may be allowed to perfect title to his original entry by showing compliance with the provisions of section twenty-two hundred and ninety-one of the Revised Statutes, respecting such original entry, and thereafter in making proof upon his additional entry shall be credited with residence maintained upon his original entry from date of such original entry, but the cultivation required upon entries made under this act must be shown respecting such additional entry, which cultivation, while it may be made upon either the original or additional entry or upon both entries, must be cultivation in addition to that relied upon and used in making proof upon the original entry; or, if he elects, his original and additional entries may be considered as one, with full credit for residence upon and improvement made upon his original entry, in which event the amount of cultivation herein required shall apply to the total area of the combined entry, and proof may be made upon such combined entry whenever it can be shown that the cultivation required by this section has been performed; and to this end the time within which proof must be made upon such a combined entry is hereby extended to seven years from the date of the original entry: *Provided further*, That where an entry is made as additional to an entry upon which final proof has theretofore been submitted by an entryman who still owns and occupies the land thus entered, the entryman in making proof upon his additional entry shall be credited with residence maintained upon his original entry from date thereof, but the cultivation required upon entries made under this act must be shown respecting such additional entry and must be performed upon the land included therein to the extent and for the period required in connection with the original entries under this act, proof of which must be submitted within five years from and after the date of the additional entry: *Provided further*, That nothing herein contained

shall be so construed as to require residence upon the combined entry in excess of the period of residence as required by section twenty-two hundred and ninety-one of the Revised Statutes.

SEC. 5. That nothing herein contained shall be held to affect the right of a qualified entryman to make homestead entry in the States named in section one of this act under the provisions of section twenty-two hundred and eighty-nine of the revised Statutes, but no person who has made entry under this act shall be entitled to make homestead entry under the provisions of said section, and no entry made under this act shall be commuted.

SEC. 6. That whenever the Secretary of the Interior shall find that any tracts of land, in the State of Utah, subject to entry under this act, do not have upon them such a sufficient supply of water suitable for domestic purposes as would make continuous residence upon the lands possible, he may, in his discretion, designate such tracts of land, not to exceed in the aggregate two million acres, and thereafter they shall be subject to entry under this act without the necessity of residence: *Provided*, That in such event the entryman on any such entry shall in good faith cultivate not less than one-eighth of the entire area of the entry during the second year, one-fourth during the third year, and one-half during the fourth and fifth years after the date of such entry, and that after entry and until final proof the entryman shall reside within such distance of said land as will enable him successfully to farm the same as required by this section.

In the act of June 17, 1910 (36 Stat., 531), applicable to Idaho alone, sections 2, 3, 4, and 5 are identical with those in the above act as amended. Sections 1 and 6 are as follows:

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

SEC. 6. That whenever the Secretary of the Interior shall find that any tracts of land in the State of Idaho subject to entry under this act do not have upon them such a sufficient supply of water suitable for domestic purposes as would make continuous residence upon the lands possible, he may, in his discretion, designate such tracts of land, not to exceed in the aggregate three hundred and twenty thousand acres, and thereafter they shall be subject to entry under this act without the necessity of residence upon the land entered: *Provided*, That the entryman shall in good faith cultivate not less than one-eighth of the entire area of the entry during the second year, one-fourth during the third year, and one-half during the fourth and fifth years after the date of said entry, and that after six months from date of entry

and until final proof the entryman shall reside not more than twenty miles from said land and be engaged personally in preparing the soil for seed, seeding, cultivating, and harvesting crops upon the land during the usual seasons for such work unless prevented by sickness or other unavoidable cause. Leave of absence from a residence established under this section may, however, be granted upon the same terms and conditions as are required of other homestead entrymen.

(No. 14.)

THE THREE-YEAR HOMESTEAD LAW.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes of the United States be amended to read as follows:

"SEC. 2291. No certificate, however, shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or, if he be dead, his widow; or, in case of her death, his heirs or devisee; or, in case of a widow making such entry, her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for a term of three years succeeding the time of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent as in other cases provided by law: *Provided*, That upon filing in the local land office notice of the beginning of such absence, the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office, but in case of commutation the fourteen months' actual residence as now required by law must be shown and the person commuting must be at the time a citizen of the United States: *Provided*, That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: *Provided further*, That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry, and until final proof, except that in the case of entries under section 6 of the enlarged-homestead law double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing,

under rules and regulations prescribed by him, reduce the required area of cultivation: *Provided*, That the above provision as to cultivation shall not apply to entries under the act of April twenty-eighth, nineteen hundred and four, commonly known as the Kinkaid Act, or entries under the act of June seventeenth, nineteen hundred and two, commonly known as the reclamation act, and that the provisions of this section relative to the homestead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required: *Provided*, That the Secretary of the Interior shall, within sixty days after the passage of this act, send a copy of the same to each homestead entryman of record who may be affected thereby, by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this act.

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

Approved June 6, 1912. (37 Stat., 123.)

An act of Congress, approved August 24, 1912 (37 Stat., 455), dispensed with the necessity of filing the election provided in the above act.

The act of August 22, 1914 (38 Stat., 704), amendatory of the first proviso to section 2291, Revised Statutes, as amended, reads as follows:

"That the entryman mentioned in section 2291, Revised Statutes of the United States, as amended by the act of June 6, 1912 (37 Stat., 123), upon filing in the local land office notice of the beginning of such absence at his option shall be entitled to a leave of absence in one or two continuous periods not exceeding in the aggregate five months in each year after establishing residence; and upon the termination of such absence, in each period, the entryman shall file a notice of such termination in the local land office; but in case of commutation the 14 months' actual residence, as now required by the law, must be shown, and the person commuting be at the time a citizen of the United States."

(No. 15.)

SETTLEMENT RIGHTS UNDER ENLARGED HOMESTEAD ACTS.

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 Congress approved May fourteenth, eighteen hundred and eighty (Twenty-first Statutes, one hundred and forty), be, and the same is hereby, amended by adding thereto the following:

"*Provided*, That any settler upon lands designated by the Secretary of the Interior as subject to the provisions of sections one to five of the enlarged homestead acts of February nineteenth, nineteen hundred and nine (Thirty-fifth Statutes, six hundred and thirty-nine), and June seventeenth, nineteen hundred and ten (Thirty-sixth Statutes, five hundred and thirty-one), shall be entitled to the preference right of entry accorded by this section, provided he shall have plainly marked the exterior boundaries of the lands claimed as his homestead: *And provided further*, That after the designation by the Secretary of the Interior of public lands for entry under the nonresidence provisions of the enlarged homestead acts of February nineteenth, nineteen hundred and nine, and June seventeenth, nineteen hundred and ten, any person who shall have plainly marked the exterior boundaries of the lands claimed under said provisions of law and made valuable improvements thereon shall have a preference right to enter the lands so claimed and improved at any time within three months after the date on which such lands become subject to entry, but such right shall forfeit unless the settler or claimant under the provisions of the enlarged homestead acts shall annually cultivate and improve the lands in the form and manner and to the extent therein required following date of initiation of his claim hereunder."

Approved August 9, 1912. (37 Stat., 267.)

(No. 16.)

SETTLEMENT PRIOR TO THREE-YEAR HOMESTEAD LAW.

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

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That any person entitled to enter lands under the homestead laws, who may have established residence upon unsurveyed lands (which were subject to homestead entry) prior to the passage and approval of the act of June sixth, nineteen hundred and twelve, entitled "An act to amend section twenty-two hundred and ninety-one and section twenty-two hundred and ninety-seven of the Revised Statutes relating to homesteads," may perfect his proof for such lands under said act of June sixth, nineteen hundred and twelve, or under the law existing at the time of the establishment of such residence, as he may elect, such election to be signified to the Department of the Interior in accordance with rules and regulations to be prescribed by the Secretary.

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Approved March 4, 1913. (37 Stat., 925.)

(No. 17.)

PETITIONS FOR DESIGNATION UNDER ENLARGED HOMESTEAD ACTS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That where any person qualified to make entry under the provisions of the act of February nineteenth, nineteen hundred and nine, and acts amendatory thereof and supplemental thereto, shall make application to enter under the provisions of said acts any unappropriated public land in any State affected thereby which has not been designated as subject to entry under the act (provided said application is accompanied and supported by properly corroborated affidavit of the applicant in duplicate, showing prima facie that the land applied for is of the character contemplated by said acts), such application, together with the regular fees and commissions, shall be received by the register and receiver of the land district in which said land is located, and suspended until it shall have been determined by the Secretary of the Interior whether said land is actually of that character; that during such suspension the land described in said application shall be segregated by the said register and receiver and not subject to entry until the case is disposed of; and if it shall be determined that such land is of the character contemplated by the said acts, then such application shall be allowed; otherwise it shall be rejected, subject to appeal: *Provided*, That the provisions of this act shall apply to the application of a qualified entryman to make additional entry of unappropriated land adjoining his unperfected homestead entry, the area of which, together with his original entry, shall not exceed three hundred and twenty acres.

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Approved March 4, 1915. (38 Stat., 1162.)

(No. 18.)

INTERMARRIAGE BETWEEN HOMESTEADERS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the marriage of a homestead entryman to a homestead entrywoman after each shall have fulfilled the requirements of the homestead law for one year next preceding such marriage shall not impair the right of either to a patent, but the husband shall elect, under rules and regulations prescribed by the Secretary of the Interior, on which of the two entries the home shall thereafter be made, and residence thereon by the husband and wife shall constitute a compliance with the residence requirements upon each entry: *Provided*, That the provisions hereof shall apply to existing entries.

Approved April 6, 1914. (38 Stat., 312.)

(No. 19.)

MARRIAGE OF ENTRYWOMAN WITH ALIEN.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That any female citizen of the United States who has initiated a claim to a tract of

public land under any of the laws applicable thereto, and who thereafter has complied with all the conditions as to the acquisition of title to such land prescribed by the public-land laws of the United States, shall, notwithstanding her intermarriage with an alien, who is entitled to become a citizen of the United States, be entitled to a certificate or patent to such entry equally as though she had remained unmarried or had married an American citizen.

Approved October 17, 1914. (38 Stat., 740.)

(No. 20.)

PROOF BY DESERTED WIFE OF ENTRYMAN.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assesmbled, That in any case in which persons have regularly initiated claims to public lands as settlers thereon under the provisions of the homestead laws and the wife of such homestead settler or entryman, while residing upon the homestead claim and prior to submission of final proof of residence, cultivation, and improvement as prescribed by law, has been abandoned and deserted by her husband for a period of more than one year, the deserted wife shall, upon establishing the fact of such abandonment or desertion to the satisfaction of the Secretary of the Interior, be entitled to submit proof upon such claim and obtain patent therefor in her name in the form, manner, and subject to the conditions prescribed in section twenty-two hundred and ninety-one of the Revised Statutes of the United States and acts supplemental thereto and amendatory thereof: *Provided*, That in such cases the wife shall be required to show residence upon, cultivation, and improvement of the homestead by herself for such time as when, added to the time during which her husband prior to desertion had complied with the law, would aggregate the full amount of residence, improvement, and cultivation required by law: *And provided further*, That the published and posted notices of intention to submit final proof in such cases shall recite the fact that the proof is to be offered and patent sought by applicant as a deserted wife, and, prior to its submission, notice thereof shall be served upon the husband of the applicant in such a manner and under such rules and regulations as the Secretary of the Interior shall prescribe.

Approved October 22, 1914. (38 Stat., 766.)

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