coal and other valuable minerals in the lands so entered and patented, together with the right to prospect for, mine, and remove the same. The coal and other valuable mineral deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal and mineral land laws in force at the time of such disposal. Any person qualified to locate and enter the coal or other mineral deposits, or having the right to mine and remove the same under the laws of the United States, shall have the right at all times to enter upon the lands entered or patented, as provided by this act, for the purpose of prospecting for coal or other mineral therein, provided he shall not injure, damage, or destroy the permanent improvements of the entryman or patentee, and shall be liable to and shall compensate the entryman or patentee for all damages to the crops on such lands by reason of such prospecting. Any person who has acquired from the United States the coal or other mineral deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining or removal of the coal or other minerals, first, upon securing the written consent or waiver of the homestead entryman or patentee; second, upon payment of the damages to crops or other tangible improvements to the owner thereof, where agreement may be had as to the amount thereof; or, third, in lieu of either of the foregoing provisions, upon the execution of a good and sufficient bond or undertaking to the United States for the use and benefit of the entryman or owner of the land, to secure the payment of such damages to the crops or tangible improvements of the entrymen or owner, as may be determined and fixed in an action brought upon the bond or undertaking in a court of competent jurisdiction against the principal and sureties thereon, such bond or undertaking to be in form and in accordance with rules and regulations prescribed by the Secretary of the Interior and to be filed with and approved by the register and receiver of the local land office of the district wherein the land is situate, subject to appeal to the Commissioner of the General Land Office: *Provided*, That all patents issued for the coal or other mineral deposits herein reserved shall contain appropriate notations declaring them to be subject to the provisions of this act with reference to the disposition, occupancy, and use of the surface of the land.

SEC. 9. That the Secretary of the Interior is authorized to prescribe the necessary and proper rules and regulations and to do any and all things necessary to carry out and accomplish the purposes of this act.

Approved, October 22, 1919.

RIPPY v. SNOWDEN.

Decided January 12, 1920.

HOMESTEAD APPLICATION—SEGREGATIVE EFFECT.

A homestead application filed, for land subject thereto, accompanied by the required showing and payment, has the segregative effect of an entry, and when allowed *all* rights thereunder relate back to date the application was filed.

VOGELSANG, *First Assistant Secretary:*

Hillery S. Rippy has appealed from a decision of the Commissioner of the General Land Office dated May 21, 1919, rejecting his

application to make an additional entry under the stock-raising homestead act for W. ½, Sec. 9, T. 33 S., R. 55 W., 6th P. M., Pueblo, Colorado, land district.

The application and petition for designation were filed September 4, 1917, at which date his application (033164), filed May 12, 1917, to make entry under the enlarged homestead act for E. ½, Sec. 9, said township, had not been allowed. The latter application was for a second entry under the act of September 5, 1914 (38 Stat., 712), and was not allowed until October 20, 1919.

All of said Sec. 9 was designated under the stock-raising act, on Rippy's petition, May 11, 1918, effective June 10, 1918.

It was because Rippy's application under the enlarged homestead act had not been allowed on September 4, 1917, that the application in question was rejected. On March 28, 1919, the local officers inadvertently allowed the application of Yvetta M. Snowden, filed August 1, 1918, for said W. ½, Sec. 9, as additional to her entry under the enlarged homestead act, made September 1, 1916, for lots 3 and 4, S. ½ NW. ¼ and SW. ¼, Sec. 4, said township. The designation under the stock-raising act of the land embraced in Snowden's original entry became effective December 20, 1918.

While Rippy had no original entry of record when the application in question was filed, he had on file an application which segregated the land as completely as an entry, since it was later determined that he was, on the date of its filing, qualified to make a second entry. Under such circumstances, *all* rights under the entry relate back to the date the application was filed, and it must be held that he was qualified to make an additional stock-raising entry on September 4, 1917. To hold otherwise would be to render his status and his rights dependent upon the delay incident to the transmission to and consideration by the Commissioner of the General Land Office of his application for second entry. In Charles C. Conrad (39 L. D., 432), the Department held, in substance, that an application to enter is an entry when accompanied by the required showing and payment, if the land is subject thereto; and it is believed that the principle announced in the Conrad case is entirely pertinent here.

Accordingly, the decision appealed from is reversed and the conflicting applications will be adjudicated by the Commissioner of the General Land Office in accordance with the provisions of section 8 of the stock-raising homestead act.