COMPiled Statutes
Of the
United States
1913

Embracing the Statutes of the United States
Of a General and Permanent Nature
In Force December 31, 1913

Incorporating Under the Headings of the Revised Statutes
the Subsequent Laws, Together with Explanatory and Historical Notes

Compiled by
John A. Mallory
Assisted by Members of the Publishers' Editorial Staff

In Five Volumes
Volume 2

St. Paul
West Publishing Co.
1914
COPYRIGHT, 1914
BY
WEST PUBLISHING COMPANY
(2 COMP. ST. '13)

DEC 2 1914
TABLE OF TITLES AND CHAPTERS

VOLUME 2

Chap. THE MILITIA ................................................................. 1191

TITLE XVI

TITLE XVII

ARMS, ARMORIES, AND ARSENALS, AND ORDNANCE AND FORTIFICATIONS

A. Arms, armories, and arsenals ........................................... 1214
B. Board of Ordnance and Fortification ..................................... 1225

TITLE XVIII

DIPLOMATIC AND CONSULAR OFFICERS

1. Diplomatic officers .......................................................... 1229
2. Consular officers ............................................................ 1239
3. Provisions common to diplomatic and consular officers ................. 1287

TITLE XIX

PROVISIONS APPLICABLE TO SEVERAL CLASSES OF PUBLIC OFFICERS AND EMPLOYÉS

A. Appointment, qualification, compensation, and services, in general .... 1275
B. Civil Service Commission and classified civil service .................. 1298

TITLE XIX A

OFFICIAL BONDS ................................................................. 1310

TITLE XX

FLAG AND SEAL ................................................................. 1316

TITLE XXI

SEAT OF GOVERNMENT, INCLUDING THE PUBLIC BUILDINGS AND GROUNDS, PARKS AND RESERVATIONS

A. Public buildings and grounds, parks and wharves ...................... 1317
B. Capitol building and grounds ............................................. 1338

TITLE XXII

THE STATES .......................................................... 1355

2 Comp.St.'13 (iii)
# TABLE OF TITLES AND CHAPTERS

**TITLE XXIII**
THE TERRITORIES AND INSULAR POSSESSIONS

<table>
<thead>
<tr>
<th>Chap.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Provisions common to all the Territories</td>
<td>1358</td>
</tr>
<tr>
<td>2.</td>
<td>Provisions concerning particular organized Territories</td>
<td>1393</td>
</tr>
<tr>
<td>3.</td>
<td>Provisions relating to the unorganized Territory of Alaska</td>
<td>1394</td>
</tr>
<tr>
<td>3A.</td>
<td>Alaska</td>
<td>1394</td>
</tr>
<tr>
<td>3B.</td>
<td>Hawaii</td>
<td>1460</td>
</tr>
<tr>
<td>3C.</td>
<td>Porto Rico</td>
<td>1498</td>
</tr>
<tr>
<td>3D.</td>
<td>The Philippine Islands</td>
<td>1525</td>
</tr>
<tr>
<td>3E.</td>
<td>Guano Islands</td>
<td>1574</td>
</tr>
</tbody>
</table>

**TITLE XXIV**
CIVIL RIGHTS

**TITLE XXV**
CITIZENSHIP

**TITLE XXVI**
THE ELECTIVE FRANCHISE

**TITLE XXVII**
THE FREEDMEN

**TITLE XXVIII**
INDIANS

<table>
<thead>
<tr>
<th>Chap.</th>
<th>Title</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Officers of Indian affairs, their duties and compensation</td>
<td>1600</td>
</tr>
<tr>
<td>2.</td>
<td>Performance of engagements between the United States and Indians</td>
<td>1617</td>
</tr>
<tr>
<td>3.</td>
<td>Government and protection of Indians</td>
<td>1638</td>
</tr>
<tr>
<td>4.</td>
<td>Government of Indian country</td>
<td>1647</td>
</tr>
<tr>
<td>4A.</td>
<td>Education of Indians</td>
<td>1659</td>
</tr>
<tr>
<td>4B.</td>
<td>Rights of way through Indian lands</td>
<td>1667</td>
</tr>
<tr>
<td>4C.</td>
<td>Allotment of Indian lands</td>
<td>1676</td>
</tr>
</tbody>
</table>

**TITLE XXIX**
IMMIGRATION

A. Regulation and restriction of immigration in general                  | 1703 |
B. Exclusion of Chinese                                                  | 1735 |
C. The cooly-trade                                                       | 1765 |

**TITLE XXX**
NATURALIZATION

**TITLE XXXI**
THE CENSUS
TABLE OF TITLES AND CHAPTERS

TITLXXXII
THE PUBLIC LANDS

Chap.  
1. Surveyors and deputy surveyors ........................................ 1820  
2. Registers and receivers .................................................. 1830  
3. Land-districts—Provisions respecting particular districts........ 1843  
3A. Withdrawal from settlement, location, sale, or entry .............. 1851  
4. Pre-emptions ...................................................................... 1854  
5. Homesteads .......................................................................... 1856  
6. Mineral lands and mining resources ...................................... 1900  
6A. Timber and stone lands ..................................................... 1924  
6B. Desert and arid lands, and irrigation and reclamation ............. 1927  
7. Sale and disposal of the public lands ...................................... 1999  
8. Reservation and sale of town-sites on the public lands .......... 1977  
9. Survey of the public lands .................................................. 1984  
10A. Reservations and grants to states for public purposes .......... 2004  
10B. Grants in aid of railroads and wagon roads .......................... 2018  
10C. Rights of way and other easements in public lands .............. 2039  
10D. Grants of swamp and overflowed lands ............................... 2054  
10E. Drainage under state laws ................................................ 2059  
10F. Protection of timber and depredations ................................. 2062  
10G. Unlawful inclosures or occupancy; obstructing settlement or transit .. 2072  
10H. Abandoned military reservations ........................................ 2074  
10I. Ceded Indian reservations ................................................. 2080  
10J. Public lands in Oklahoma ................................................... 2087  
10K. Public lands in Alaska ...................................................... 2089  
11. Miscellaneous provisions relating to the public lands ............. 2127

TITLXXXII A
THE NATIONAL FORESTS ......................................................... 2142

TITLXXXII B
THE NATIONAL PARKS, RESERVATIONS, AND MONUMENTS 2172

TITLXXXII C
THE NATIONAL MILITARY PARKS ............................................. 2222

TITLXXXIII
DUTIES UPON IMPORTS ............................................................. 2226
TITLE XVI
THE MILITIA

Sec. 3041. Composition of militia, and classification as organized militia and reserve militia.

Sec. 3059. Issue of arms, etc., uniforms, etc., and military stores; exchange of ammunition; accounting for property; clothing allowance; issue of ammunition; appropriation; report of expenditures.

Sec. 3060. Issue of new type of small arms, etc.

3061. Issue of automatic pistols, etc.; exchange of ammunition therefor; receive and accounting for pistols, etc.; old United States revolvers, etc., to be turned in.

3062. Issue of field artillery material; accounting therefor.

3063. Purchase of material, equipment, etc., for State coast artillery organizations; withdrawal in time of war.

3064. Payment from allotment out of annual appropriation for actual field or camp service for instruction; disbursing officer; accounts; bonds.

3065. Officers of organized militia not required to give bonds for funds for purchase of travel rations.

3066. Participation in encampments, maneuvers, etc., of Regular Army; pay, subsistence, and transportation during joint encampments, maneuvers, etc., appropriations therefor, and disbursement thereof; right to command.

3067. Payment of militia for service in encampment, etc., after muster.

3068. Allowances to officers and enlisted men of militia attending military schools.

3069. Issue of Army stores, etc.; purchase of additional stores, etc., from War Department.

3070. Sale of magazine rifles for use of rifle clubs.

3071. Sale of ammunition, ordnance stores, and equipment for use of rifle clubs.

3072. Annual practice marches or camps of instruction, drill or target practice, and inspection,
§ 3041  
THE MILITIA  

3073. Detail of officers of Army to attend encampments of militia; reports.
3074. Detail of officers or enlisted men of Army for duty in connection with organized militia; board of officers of militia for consultation with Secretary of War.
3075. Ammunition for instruction in firing and target practice.
3076. Pension for disabilities incurred or in case of death in service of the United States.
3077. Organization of volunteer forces.
3078. Vessels for naval militia of States.

This Title of the Revised Statutes included sections 1025–1061, which provided for the composition, organization, equipment, regulation, and service of the militia. Provisions of the same nature were made by the Militia Act, also known as the Dick Act, of Jan. 21, 1903, c. 196, 32 Stat. 775, section 25 of which repealed all these sections of the Revised Statutes, except section 1061, which made a permanent annual appropriation for arms and equipment. The provisions of said Militia Act of 1903, as amended by the Militia Act of May 27, 1908, c. 204, 35 Stat. 399, and of subsequent acts relating to the militia, are included in this Title.

The provisions for the organization of a Volunteer Army in time of war, of Act April 22, 1868, c. 187, 30 Stat. 361, and subsequent acts, and the provisions for commissions in the volunteer forces, of section 23 of the Militia Act of 1903, are set forth ante, §§ 2021–2044.

(R. S. §§ 1625–1660. Repealed.)

These sections, comprising the whole of this Title of the Revised Statutes except section 1061, which made a permanent annual appropriation for arms and equipment for the militia, were repealed by Act Jan. 21, 1903, c. 196, § 25, 32 Stat. 780. Other sections of that act relating to the militia are set forth post, §§ 3041, 3043–3053, 3059, 3064, 3066, 3068, 3069, 3072–3077.

§ 3041. (Act Jan. 21, 1903, c. 196, § 1, as amended, Act May 27, 1908, c. 204, § 1.) Composition of militia, and classification as organized militia and reserve militia.

The militia shall consist of every able-bodied male citizen of the respective States and Territories and the District of Columbia, and every able-bodied male of foreign birth who has declared his intention to become a citizen, who is more than eighteen and less than forty-five years of age, and shall be divided into two classes: The organized militia, to be known as the National Guard of the State, Territory, or District of Columbia, or by such other designations as may be given them by the laws of the respective States or Territories; the remainder to be known as the Reserve Militia: Provided, That the provisions of this Act and of section sixteen hundred and sixty-one, Revised Statutes, as amended, shall apply only to the militia organized as a land force. (32 Stat. 775. 35 Stat. 399.)

This was the first section of the Militia Act of 1903, cited above, entitled "An act to promote the efficiency of the Militia, and for other purposes." This section, as originally enacted, did not contain the proviso annexed thereto, as set forth here. It was amended, by making some merely verbal changes and adding said proviso, by the Militia Act of 1908, c. 204, § 1, last cited above.

Sections 2–22, 24, of this act are set forth post, §§ 3043–3053, 3059, 3064, 3066, 3068, 3069, 3072–3077.

The words "State or Territory," used in this act, were declared to include (1192)
§ 3044. (Act Jan. 21, 1903, c. 196, § 3, as amended; Act May 27, 1908, c. 204, § 2.) Organized militia; organization, armament, and discipline; minimum number of enlisted men in organizations; privileges of existing corps.

The regularly enlisted, organized, and uniformed active militia in the several States and Territories and the District of Columbia who have heretofore participated or shall hereafter participate in the apportionment of the annual appropriation provided by section sixteen hundred and sixty-one of the Revised Statutes of the United
States, as amended, whether known and designated as National Guard, militia, or otherwise, shall constitute the organized militia. On and after January twenty-first, nineteen hundred and ten, the organization, armament, and discipline of the organized militia in the several States and Territories and the District of Columbia shall be the same as that which is now or may hereafter be prescribed for the Regular Army of the United States, subject in time of peace to such general exceptions as may be authorized by the Secretary of War: Provided, That in peace and war each organized division of militia may have one inspector of small-arms practice with the rank of lieutenant-colonel; each organized brigade of militia one inspector of small-arms practice with the rank of major; each regiment of infantry or cavalry of organized militia one assistant inspector of small-arms practice with the rank of captain, and each separate or unassigned battalion of infantry or engineers or squadron of cavalry of organized militia one assistant inspector of small-arms practice with the rank of first lieutenant: Provided also, That the President of the United States in time of peace may, by order, fix the minimum number of enlisted men in each company, troop, battery, signal corps, engineer corps, and hospital corps: And provided further, That any corps of artillery, cavalry, and infantry existing in any of the States at the passage of the Act of May eighth, seventeen hundred and ninety-two, which, by the laws, customs, or usages of the said States, have been in continuous existence since the passage of said Act, under its provisions and under the provisions of section two hundred and thirty-two and sections sixteen hundred and twenty-five to sixteen hundred and sixty, both inclusive, of title sixteen of the Revised Statutes of the United States, relating to the militia, shall be allowed to retain their accustomed privileges, subject, nevertheless, to all other duties required by law, in like manner as the other militia. (32 Stat. 775. 35 Stat. 399.)

This section, as originally enacted, limited the time within which the organisation, armament, and discipline of the organized militia should conform to that prescribed for the Regular Army, to "five years from the date of the approval of this act," and it did not contain the first proviso in order in the section as set forth here. It was amended, by extending said time to January 21, 1910, and by inserting said proviso, with some minor changes, making the section read as set forth here, by the Militia Act of 1908, last cited above.

A joint resolution, passed before said amendment, Res. Jan. 16, 1908, No. 4, 35 Stat. 506, which likewise extended the time for the organized militia to conform to the provisions of this section to the same date, January 21, 1910, may be regarded as superseded by the amendment to the same effect by Act May 27, 1908, c. 204, § 2.

R. S. § 232, mentioned in this section, was repealed by section 25 of this act, section 12 of which contained more comprehensive provisions of the same nature.

R. S. § 1661, mentioned in this section, is set forth as amended by subsequent acts, post, § 3054.

Act May 8, 1792, c. 33, also mentioned in this section, was incorporated in various sections of this Title of the Revised Statutes, which were repealed by section 25 of this act.

Provisions to promote the efficiency of the Reserve Militia, and to encourage rifle practice among the members thereof, of Act March 3, 1905, c. 1410, are set forth post, §§ 3070, 3071.

(1194)
§ 3045. (Act Jan. 21, 1903, c. 196, § 4, as amended, Act May 27, 1908, c. 204, § 3.) Call of President in case of invasion, rebellion, etc.

Whenever the United States is invaded, or in danger of invasion from any foreign nation, or of rebellion against the authority of the Government of the United States, or the President is unable with the regular forces at his command to execute the laws of the Union, it shall be lawful for the President to call forth such number of the militia of the State or of the States or Territories or of the District of Columbia as he may deem necessary to repel such invasion, suppress such rebellion, or to enable him to execute such laws, and to issue his orders for that purpose, through the governor of the respective State or Territory, or through the commanding general of the militia of the District of Columbia, from which State, Territory, or District such troops may be called, to such officers of the militia as he may think proper. (32 Stat. 776. 35 Stat. 400.)

This section, as originally enacted, authorized the President, when unable, “with the other forces at his command,” to execute the laws, to call forth the militia “for a period not exceeding nine months,” and to issue his orders for that purpose to such officers of the militia as he may think proper.

It was amended, by changing the words “other forces” to “regular forces,” by omitting the words “for a period not exceeding nine months,” and by inserting the words providing that the orders for the purpose should be issued through the Governor of the state or territory or the commanding general of the District of Columbia, by the Militia Act of 1908, last cited above.

§ 3046. (Act Jan. 21, 1903, c. 196, § 5, as amended, Act May 27, 1908, c. 204, § 4.) Term of service to be specified in call; restriction on time of service; organized militia to be called into service before volunteer force.

Whenever the President calls forth the organized militia of any State, Territory, or of the District of Columbia, to be employed in the service of the United States, he may specify in his call the period for which such service is required, and the militia so called shall continue to serve during the term so specified, either within or without the territory of the United States, unless sooner relieved by order of the President: Provided, That no commissioned officer or enlisted man of the organized militia shall be held to service beyond the term of his existing commission or enlistment: Provided further, That when the military needs of the Federal Government arising from the necessity to execute the laws of the Union, suppress insurrection, or repel invasion, can not be met by the regular forces, the organized militia shall be called into the service of the United States in advance of any volunteer force which it may be determined to raise. (32 Stat. 776. 35 Stat. 400.)

This section, as originally enacted, was as follows:

“Whenever the President calls forth the militia of any State or Territory or of the District of Columbia to be employed in the service of the United States, he may specify in his call the period for which such service is required, not exceeding nine months, and the militia so called shall continue to serve during the term so specified, unless sooner discharged by order of the President.”

It was amended, by inserting before the word “militia” the word “organized,” omitting the word “or” before the word “Territory,” omitting the words lim-
§ 3046. THE MILITIA

iting the period of service, "not exceeding nine months," and adding, at the end of the section, the two provisions, making the section read as set forth here, by section 4 of the Militia Act of 1908, last cited above.

Provisions for the enlistment of the members of a company, troop, battery, battalion, or regiment, of the organized militia of a State, in the Volunteer Army, in a body, were made by Act April 22, 1898, c. 187, § 6, ante, § 2024.

§ 3047. (Act Jan. 21, 1903, c. 196, § 6.) Apportionment of number called into service among states, etc.

When the militia of more than one State is called into the actual service of the United States by the President he may, in his discretion, apportion them among such States or Territories or to the District of Columbia according to representative population. (32 Stat. 776.)

§ 3048. (Act Jan. 21, 1903, c. 196, § 7, as amended, Act May 27, 1908, c. 204, § 5.) Muster into service without further enlistment; refusal to answer call; punishment.

Every officer and enlisted man of the militia who shall be called forth in the manner hereinbefore prescribed, shall be mustered for service without further enlistment, and without further medical examination previous to such muster, except for those States and Territories which have not adopted the standard of medical examination prescribed for the Regular Army: Provided, however, That any officer or enlisted man of the militia who shall refuse or neglect to present himself for such muster, upon being called forth as herein prescribed, shall be subject to trial by court-martial and shall be punished as such court-martial may direct. (32 Stat. 776. 35 Stat. 401.)

The provision of this section preceding the proviso, as originally enacted, was as follows:

"Every officer and enlisted man of the militia who shall be called forth in the manner hereinbefore prescribed and shall be found fit for military service shall be mustered or accepted into the United States service by a duly authorized mustering officer of the United States."

It was amended to read as set forth here by section 5 of the Militia Act of 1908, last cited above.

§ 3049. (Act Jan. 21, 1903, c. 196, § 8, as amended, Act May 27, 1908, c. 204, § 6.) Courts-martial; composition.

The majority membership of courts-martial for the trial of officers or men of the militia when in the service of the United States shall be composed of militia officers. (32 Stat. 776. 35 Stat. 401.)

This section, as originally enacted, was as follows:

"(Courts-martial for the trial of officers or men of the militia, when in the service of the United States, shall be composed of militia officers only.)"

It was amended to read as set forth here by section 6 of the Militia Act of 1908, last cited above.

Courts-martial, summary courts, and courts of inquiry were provided for by the Articles of War, arts. 72-121, and subsequent statutes, set forth ante, §§ 2382-2441.

§ 3050. (Act Jan. 21, 1903, c. 196, § 9.) Militia in actual service subject to Rules and Articles of War.

The militia, when called into the actual service of the United
States, shall be subject to the same Rules and Articles of War as the regular troops of the United States. (32 Stat. 776.)

The Articles of War are set forth in Title XIV, "The Army," c. 5, ante, §§ 2308-2447.

A subsequent provision, that the militia of the States, when called into the service of the United States, shall be subject to the laws, orders, and regulations governing the Regular Army, was made by Act April 22, 1868, c. 187, § 6, ante, § 2024.

§ 3051. (Act Jan. 21, 1903, c. 196, § 10.) Pay and allowances of militia in actual service.

The militia, when called into the actual service of the United States, shall, during their time of service, be entitled to the same pay and allowances as are or may be provided by law for the Regular Army. (32 Stat. 776.)

§ 3052. (Act Jan. 21, 1903, c. 196, § 11, as amended, Act May 27, 1908, c. 204, § 7.) Time of commencement of pay; previous expenditures.

When the militia is called into the actual service of the United States, or any portion of the militia is called forth under the provisions of this Act, their pay shall commence from the day of their appearing at the place of company rendezvous, but this provision shall not be construed to authorize any species of expenditure previous to arriving at such places of rendezvous which is not provided by existing laws to be paid after their arrival at such places of rendezvous. (32 Stat. 776. 35 Stat. 401.)

This section, as originally enacted, provided for pay when "any portion of the militia is accepted under the provisions of this act." The word "accepted" was changed to "called forth," by amendment by section 7 of the Militia Act of 1908, last cited above.

Provisions relating to the pay, etc., of the organized militia participating in encampments, maneuver, etc., were made by section 15 of this act, post, § 3006.

Payment for actual field or camp service for instruction, from the allotment of the state out of the annual appropriation, under R. S. § 1861, post, § 3004, was provided for by section 14 of this act, post, § 3064.

Payment for service while participating in encampments, maneuvers, etc., of the Regular Army, was also provided for by section 15 of this act, post, § 3006.

§ 3053. (Act Jan. 21, 1903, c. 196, § 12.) Adjutant-General in each State, etc.; duties, and returns and reports to Secretary of War; report to Congress.

There shall be appointed in each State, Territory and District of Columbia, an Adjutant-General, who shall perform such duties as may be prescribed by the laws of such State, Territory, and District, respectively, and make returns to the Secretary of War, at such times and in such form as he shall from time to time prescribe, of the strength of the organized militia, and also make such reports as may from time to time be required by the Secretary of War. That the Secretary of War shall, with his annual report of each year, transmit to Congress an abstract of the returns and reports of the adjutants-general of the States, Territories, and the District of Columbia, (1197)
with such observations thereon as he may deem necessary for the information of Congress. (32 Stat. 776.)

Previous provisions, that the Secretary of War should lay before Congress in each year an abstract of the returns of the adjutant-generals of the several States of the militia thereof, were contained in R. S. § 232, which was repealed by section 25 of this act.

§ 3054. (R. S. § 1661, as amended, Act Feb. 12, 1887, c. 129, § 1, Act June 6, 1900, c. 805, and Act June 22, 1906, c. 3515, § 1.)

Annual appropriation for arms and equipments.

The sum of two million dollars is hereby annually appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the purpose of providing arms, ordnance stores, quartermaster stores, and camp equipage for issue to the militia, such appropriation to remain available until expended.


This section, as enacted in the Revised Statutes, provided for an annual appropriation of $200,000 for the purpose of providing arms and equipments for the whole body of the militia, either by purchase or manufacture, by and on account of United States. It was amended by increasing the amount of the appropriation to $400,000, by Act Feb. 12, 1887, c. 129, § 1, cited above, and again amended by increasing the amount to $1,000,000 by Act June 6, 1900, c. 805, also cited above, and again amended to read as set forth here by Act June 22, 1906, c. 3515, § 1, last cited above.

Provisions for the apportionment among the States, etc., and the application of the appropriation made by this section, made by Act Feb. 12, 1887, c. 129, §§ 2–4, were also amended by said Act June 22, 1900, c. 3515, §§ 2–4, to read as set forth post, §§ 3055–3057.

The regularly enlisted, organized, and uniformed active militia, who participate in the apportionment of the annual appropriation provided by this section, constitute the organized militia, as distinguished from the reserve militia, by section 3 of the Militia Act of 1903, ante, § 3044.

Arms, equipments, etc., may be issued for arming all the organized militia, without charging the cost thereof against the allotment out of the annual appropriation under this section, by section 13 of the Militia Act of 1903, and subsequent provisions, set forth post, §§ 3059–3063.

The annual appropriation made by this section was made available for the purpose of providing for issue to the organized militia of any stores and supplies or publications which are supplied to the Army by any department, by section 17 of the Militia Act of 1903, post, § 3069.

A provision that the permanent annual appropriation made by this section should not lapse with the end of any fiscal year, etc., but should remain a permanent appropriation and be available for the several States, etc., until expended, made by Act Aug. 18, 1894, c. 301, § 1, 28 Stat. 406, was superseded by the last clause of this section, added thereto by said amendment by Act June 22, 1906, c. 3515, § 1.

§ 3055. (Act Feb. 12, 1887, c. 129, § 2, as amended, Act June 22, 1906, c. 3515, § 2.) Apportionment of appropriation among States and Territories; purposes for which appropriation available.

Said appropriation shall be apportioned among the several States and Territories, under the direction of the Secretary of War, according to the number of Senators and Representatives to which each State respectively is entitled in the Congress of the United States, and to the Territories and District of Columbia such propor-
tion and under such regulations as the President may prescribe: Provided, however, That no State shall be entitled to the benefits of the appropriation apportioned to it unless the number of its regularly enlisted, organized, and uniformed active militia shall be at least one hundred men for each Senator and Representative to which such State is entitled in the Congress of the United States. And the amount of said appropriation which is thus determined not to be available shall be covered back into the Treasury: Provided also, That the sums so apportioned among the several States and Territories and the District of Columbia shall be available for the purposes named in section fourteen of the Act of January twenty-first, nineteen hundred and three, for the actual excess of expenses of travel in making the inspections therein provided for over the allowances made for same by law; for the promotion of rifle practice, including the acquisition, construction, maintenance, and equipment of shooting galleries and suitable target ranges; for the hiring of horses and draft animals for the use of mounted troops, batteries, and wagons; for forage for the same and for such other incidental expenses in connection with encampments, maneuvers, and field instruction provided for in sections fourteen and fifteen of the said Act of January twenty-first, nineteen hundred and three, as the Secretary of War may deem necessary. (24 Stat. 402. 34 Stat. 449.)

This section and the two sections next following were sections 2-4 of an act to amend R. S. § 1061.

Section 1 of the act, amending said R. S. § 1061, was superseded by subsequent amendments of that section. See notes to said section, ante, § 3054. This section, as originally enacted in Act Feb. 12, 1887, c. 129, § 2, cited above, did not contain the last proviso, specifying various purposes for which the appropriation shall be available. Said proviso was added at the end of the section, making it read as set forth here, by Act June 22, 1906, c. 3515, § 2, last cited above.

Sections 14 and 15 of the Militia Act of Jan. 21, 1903, c. 196, mentioned in said last proviso added to this section, are set forth post, §§ 3064, 3066.

§ 3056. (Act Feb. 12, 1887, c. 129, § 3, as amended, Act June 22, 1906, c. 3515, § 3.) Purchase of arms, etc., and accountability therefor.

The purchase or manufacture of arms, ordnance stores, quartermaster stores, and camp equipage for the militia under the provisions of this Act shall be made under the direction of the Secretary of War, as such arms, ordnance and quartermaster stores, and camp equipage are now manufactured or otherwise provided for the use of the Regular Army, and they shall be receipted for and shall remain the property of the United States, and be annually accounted for by the governors of the States and Territories and by the commanding general of the National Guard of the District of Columbia, for which purpose the Secretary of War shall prescribe and supply the necessary blanks and make such regulations as he may deem necessary to protect the interests of the United States. (24 Stat. 402. 34 Stat. 450.)

See notes to section 2 of this act, ante, § 3055.

This section, as originally enacted, did not contain the words “and by the commanding general of the National Guard of the District of Columbia.”
§ 3056 THE MILITIA (Tit. 16)

Those words were added by amendment, by Act June 22, 1906, c. 3515, § 3, last cited above.

The provisions of this act for the purchase or manufacture of arms, etc., mentioned in this section, were the provisions of R. S. § 1061, as amended by section 1 of this act, and further amended by section 1 of said Act June 22, 1906, c. 3515, to read as set forth ante, § 3054.

§ 3057. (Act Feb. 12, 1887, c. 129, § 4, as amended, Act June 22, 1906, c. 3515, § 4.) Property lost or destroyed, or becoming unserviceable or unsuitable; examination as to accountability; disposition of articles.

Whenever any property furnished to any State or Territory, or the District of Columbia, as hereinafter provided, has been lost or destroyed, or has become unserviceable or unsuitable from use in service, or from any other cause, it shall be examined by a disinterested surveying officer of the organized militia, to be appointed by the governor of the State or Territory, or the commanding general of the National Guard of the District of Columbia, to whom the property has been issued, and his report shall be forwarded by said governor or commanding general direct to the Secretary of War, and if it shall appear to the Secretary of War from the record of survey that the property has been lost or destroyed through unavoidable causes, he is hereby authorized to relieve the State from further accountability therefor; if it shall appear that the loss or destruction of property was due to carelessness or neglect or that its loss could have been avoided by the exercise of reasonable care, the money value thereof shall be charged against the allotment to the States under section sixteen hundred and sixty-one of the Revised Statutes as amended. If the articles so surveyed are found to be unserviceable or unsuitable, the Secretary of War shall direct what disposition, by sale or otherwise, shall be made of them, except unserviceable clothing which shall be destroyed, and if sold the proceeds of such sale shall be covered into the Treasury of the United States. (24 Stat. 402. 34 Stat. 450.)

See notes to section 2 of this act, ante, § 3055.

This section, as originally enacted, was as follows:

"All arms, equipments, ordinance stores, or tents which may become unserviceable or unsuitable shall be examined by a board of officers of the militia, and its report shall be forwarded by the governor of the State or Territory direct to the Secretary of War who shall direct what disposition, by sale or otherwise, shall be made of them; and, if sold, the proceeds of such sale shall be covered into the Treasury of the United States."

It was amended to read as set forth here by Act June 22, 1906, c. 3515, § 4, last cited above.

R. S. § 1061, mentioned in this section, as amended by section 1 of said Act June 22, 1906, c. 3515, is set forth ante, § 3054.

§ 3058. (Act June 13, 1890, c. 423, § 1.) Cost of ordnance issued to be credited to appropriation.

Hereafter the cost to the Ordnance Department of all ordnance and ordnance stores issued to the States, Territories, and District of Columbia, under the act of February twelfth, eighteen hundred and eighty-seven, shall be credited to the appropriation for "manufacture of arms at national armories," and used to procure like

(1200)
ordinance stores, and that said appropriation shall be available until exhaustted, not exceeding two years. (26 Stat. 156.)

This was a proviso annexed to an appropriation for manufacture, repair, and issue of arms at the national armories, in the Army appropriation act for the fiscal year 1891, cited above.

A similar provision was made by the Army appropriation act for the preceding fiscal year, Act March 2, 1889, c. 372, 25 Stat. 833.

§ 3059. (Act Jan. 21, 1903, c. 196, § 13, as amended, Act May 27, 1908, c. 204, § 8.) Issue of arms, etc., uniforms, etc., and military stores; exchange of ammunition; accounting for property; clothing allowance; issue of ammunition; appropriation; report of expenditures.

The Secretary of War is hereby authorized to procure, by purchase or manufacture, and issue from time to time to the organized militia, under such regulations as he may prescribe, such number of the United States service arms, together with all accessories and such other accouterments, equipments, uniforms, clothing, equipage, and military stores of all kinds required for the Army of the United States, as are necessary to arm, uniform, and equip all of the organized militia in the several States, Territories, and the District of Columbia, in accordance with the requirements of this Act, without charging the cost or value thereof, or any expense connected therewith, against the allotment of said State, Territory, or the District of Columbia, out of the annual appropriation provided by section sixteen hundred and sixty-one of the Revised Statutes as amended, or requiring payment therefor, and to exchange, without receiving any money credit therefor, ammunition or parts thereof suitable to the new arms, round for round, for corresponding ammunition suitable to the old arms heretofore issued to said State, Territory, or the District of Columbia by the United States: Provided, That said property shall remain the property of the United States, except as hereinafter provided, and be annually accounted for by the governors of the States and Territories as required by law, and that each State, Territory, and the District of Columbia shall, on receipt of new arms or equipments, turn in to the War Department, or otherwise dispose of in accordance with the directions of the Secretary of War, without receiving any money credit therefor and without expense for transportation, all United States property so replaced or condemned. When the organized militia is uniformed as above required, the Secretary of War is authorized to fix an annual clothing allowance to each State, Territory, and the District of Columbia for each enlisted man of the organized militia thereof, and thereafter issues of clothing to such States, Territories, and the District of Columbia shall be in accordance with such allowance, and the governors of the States and Territories and the commanding general of the militia of the District of Columbia shall be authorized to drop from their returns each year as expended clothing corresponding in value to such allowance. The Secretary of War is hereby further authorized to issue from time to time to the organized militia, under such regulations as he may prescribe, small arms and artillery ammunition upon the requisition of the governor,

Comp. St. '13—76

(1201)
in the proportion of fifty per centum of the corresponding Regular Army allowance, without charge to the State's allotment from the appropriation under section sixteen hundred and sixty-one, Revised Statutes, as amended. To provide means to carry into effect the provisions of this section, the necessary money to cover the cost of procuring, exchanging, or issuing of arms, accouterments, equipments, uniforms, clothing, equipage, ammunition, and military stores to be exchanged or issued hereunder is hereby appropriated out of any money in the Treasury not otherwise appropriated: Provided, That the sum expended in the execution of the purchases and issues provided for in this section shall not exceed the sum of two million dollars in any fiscal year: Provided also, That the Secretary of War shall annually submit to Congress a report of expenditures made by him in the execution of the requirements of this section. (32 Stat. 777. 35 Stat. 401.)

This section was part of the Militia Act of 1903, cited above. See notes to section 1 of the act, ante, § 3041.

This section, as originally enacted, was as follows:

"The Secretary of War is hereby authorized to issue, on the requisition of the governors of the several States and Territories, or of the commanding general of the militia of the District of Columbia, such number of the United States standard service magazine arms, with bayonets, bayonet scabbards, gun slings, belts, and such other necessary accouterments and equipments as are required for the Army of the United States, for arming all of the organized militia in said States and Territories and District of Columbia, without charging the cost or value thereof, or any which have been issued since December first, nineteen hundred and one, or any expense connected therewith, against the allotment to said State, Territory, or District of Columbia, out of the annual appropriation provided by section sixteen hundred and sixty-one of the Revised Statutes, as amended, or requiring payment therefor, and to exchange, without receiving any money credit therefor, ammunition, or parts thereof, suitable to the new arms, round for round, for corresponding ammunition suitable to the old arms theretofore issued to said State, Territory, or District by the United States: Provided, That said rifles and carbines and other property shall be received for and shall remain the property of the United States and be annually accounted for by the governors of the States and Territories as now required by law, and that each State, Territory, and District shall, on receipt of the new arms, turn in to the Ordnance Department of the United States Army, without receiving any money credit therefor, and without expense for transportation, all United States rifles and carbines now in its possession.

"To provide means to carry into effect the provisions of this section, the necessary money to cover the cost of exchanging or issuing the new arms, accouterments, equipments, and ammunition to be exchanged or issued hereunder is hereby appropriated out of any moneys in the Treasury not otherwise appropriated."

It was amended to read as set forth here by section 8 of the Militia Act of 1908, last cited above.

Previous provisions for issue of Springfield rifles to each State and Territory, in exchange for an equal number of the arms then held by each of them, and requiring annual returns of the arms so issued, made by Act Feb. 24, 1897, c. 310, §§ 1, 2, 29 Stat. 592, were superseded by the provisions of this section. Subsequent provisions similar to those of this section as originally enacted, made by Act March 2, 1903, c. 975, 32 Stat. 942, may be regarded as superseded by the amendment of this section by section 8 of the Militia Act of 1908, last cited above.

A permanent annual appropriation for procuring arms, ordnance stores, (1202)
etc., for issue to the militia, was made by R. S. § 1661, set forth, as amended by various subsequent acts, ante, § 3064.

Subsequent provisions for issue of particular arms, equipments, ordnance material, etc., to the several States, etc., without charging the cost or value thereof against the allotment from the annual appropriation made by R. S. § 1801, ante, § 3054, and without cost to the States, etc., made by Act March 2, 1907, c. 2511, Act March 23, 1910, c. 115, Act March 3, 1911, c. 209, and Act March 2, 1913, c. 93, are set forth post, §§ 3060-3063.

Provisions for the sale of magazine rifles, and ammunition, ordnance stores, and equipments, for the use of rifle clubs, made by Act March 3, 1905, c. 1416, are set forth post, §§ 3070, 3071.

§ 3060. (Act March 2, 1907, c. 2511.) Issue of new type of small arms, etc.

It shall be the duty of the Secretary of War, whenever a new type of small arm shall have been adopted for the use of the Regular Army, and when a sufficient quantity of such arms shall have been manufactured to constitute, in his discretion, an adequate reserve for the armament of any regular and volunteer forces that it may be found necessary to raise in case of war, to cause the organized militia of the United States to be furnished with small arms of the type so adopted, with bayonets and the necessary accouterments and equipments, including ammunition therefor: Provided, That such issues shall be made in the manner provided in section thirteen of the Act approved January twenty-first, nineteen hundred and three, entitled "An Act to promote the efficiency of the militia, and for other purposes." (34 Stat. 1174.)

This was a provision accompanying an appropriation for manufacture of arms in the Army appropriation act for the fiscal year 1908, cited above.

Section 13 of the Militia Act of Jan. 21, 1903, c. 196, mentioned in the proviso annexed to this provision, is set forth ante, § 3050.

§ 3061. (Act March 3, 1911, c. 209.) Issue of automatic pistols, etc.; exchange of ammunition therefor; receipt and accounting for pistols, etc.; old United States revolvers, etc., to be turned in.

Whenever in his opinion a sufficient number of automatic pistols of the standard service type, holsters, and pistol-cartridge boxes therefor, shall have been procured and be available for the purpose, the Secretary of War is hereby authorized to issue, on the requisition of the governors of the several States and Territories, or of the commanding general of the Militia of the District of Columbia, such number of standard pistols, holsters, and pistol-cartridge boxes therefor as are required for arming all of the Organized Militia in said States, Territories, and District of Columbia, without charging the cost or value thereof, or any expense connected therewith, against the allotment to said State, Territory, or District of Columbia, out of the annual appropriation provided by section sixteen hundred and sixty-one of the Revised Statutes, as amended, or requiring payment therefor, and to exchange, without receiving any money credit therefor, ammunition, or parts thereof, suitable to the new standard pistol, round for round, for corresponding ammunition suitable to the old revolver theretofore issued to said States, Territory, or District by the United States: Provided, That the said standard pistols, holsters, and

(1203)
§ 3061  THE MILITIA  (Tit. 16)

pistol-cartridge boxes therefor shall be receipted for and shall remain the property of the United States and be annually accounted for by the governors of the States and Territories and the commanding general of the Militia of the District of Columbia as now required by law, and that each State, Territory, and District shall, on receipt of the new pistols, holsters, and pistol-cartridge boxes, and ammunition, turn in to the Ordnance Department of the United States Army, without receiving any money credit therefor and without expense for transportation, all United States revolvers and ammunition therefor, holsters, and revolver-cartridge boxes now in its possession.

To provide means to carry into effect the foregoing provisions, the necessary money, not to exceed three hundred thousand dollars, to recover the cost of exchanging or issuing the new pistols, ammunition therefor, holsters, and pistol-cartridge boxes to be exchanged or issued hereunder, is hereby appropriated out of any moneys in the Treasury not otherwise appropriated. (36 Stat. 1057.)

These were provisions annexed to an appropriation for the manufacture of arms in the Army appropriation act for the fiscal year 1911, cited above.

R. S. § 1601, mentioned in this section, is set forth, as amended by subsequent acts, ante, § 3054.

§ 3062. (Act March 2, 1913, c. 93.) Issue of field artillery material; accounting therefor.

For the purpose of procuring field artillery material for the Organized Militia of the several States, Territories, and the District of Columbia, without cost to the said States, Territories, or the District of Columbia, but to remain the property of the United States and to be accounted for in the manner now prescribed by law, the Secretary of War is hereby authorized, under such regulations as he may prescribe, on the requisitions of the governors of the several States and Territories or the commanding general of the Militia of the District of Columbia, to issue said artillery material to the Organized Militia; and the sum of $1,000,000 is hereby appropriated and made immediately available and to remain available until the end of the fiscal year nineteen hundred and fifteen for the procurement and issue of the articles constituting the same. (37 Stat. 721.)

This was a provision, under the heading "Field Artillery for Organized Militia," of the Army appropriation act for the fiscal year 1914, cited above.


§ 3063. (Act March 23, 1910, c. 115.) Purchase of material, equipment, etc., for State coast artillery organizations; withdrawal in time of war.

For the purchase of material, equipment, books of instruction, range finders, and fire-control equipment for the instruction and use of State coast artillery organizations, * *: Provided, That in time of war, or threatened war, such equipment may, in the discretion of the Secretary of War, be withdrawn from armories or other places
where it is in use by the State coast artillery organizations, and may be used in the fortifications of the United States. (36 Stat. 261.)

This was a provision of the Army appropriation act for the fiscal year 1911, cited above.

A similar appropriation, with the same proviso annexed, was made in the Army appropriation acts for the two preceding fiscal years. It was not repeated in the similar acts for subsequent years, but in each of them an appropriation was made for equipments of coast artillery armories of the organized militia. The provision for the fiscal year 1914 was by Act March 2, 1913, c. 93, 37 Stat. 711.

Provisions authorizing the Secretary of War to issue, on requisition of the Governor of a State bordering on the sea or Gulf coast, and having a permanent camping ground for the encampment of the militia not less than six days annually, two heavy guns and four mortars, with carriages and platforms, for their instruction, and for the construction of a suitable battery for the cannon so issued, and appropriating $5,000 for supplying each State that might apply, made by Act May 19, 1882, c. 172, § 2, 22 Stat. 83, were repealed by Act March 2, 1907, c. 2507, 34 Stat. 1060.

§ 3064. (Act Jan. 21, 1903, c. 196, § 14.) Payment from allotment out of annual appropriation for actual field or camp service for instruction; disbursing officer; accounts; bonds.

Whenever it shall appear by the report of inspections, which it shall be the duty of the Secretary of War to cause to be made at least once in each year by officers detailed by him for that purpose, that the organized militia of a state or territory or of the District of Columbia is sufficiently armed, uniformed, and equipped for active duty in the field, the Secretary of War is authorized, on the requisition of the governor of such State or Territory, to pay to the quartermaster-general thereof, or to such other officer of the militia of said State as the said governor may designate and appoint for the purpose, so much of its allotment out of the said annual appropriation under section sixteen hundred and sixty-one of the Revised Statutes as amended as shall be necessary for the payment, subsistence, and transportation of such portion of said organized militia as shall engage in actual field or camp service for instruction, and the officers and enlisted men of such militia while so engaged shall be entitled to the same pay, subsistence, and transportation or travel allowances as officers and enlisted men of corresponding grades of the Regular Army are or may hereafter be entitled by law, and the officer so designated and appointed shall be regarded as a disbursing officer of the United States, and shall render his accounts through the War Department to the proper accounting officers of the Treasury for settlement, and he shall be required to give good and sufficient bonds to the United States, in such sums as the Secretary of War may direct, faithfully to account for the safe-keeping and payment of the public moneys so intrusted to him for disbursement. (32 Stat. 777.)

This section was part of the Militia Act of 1903, cited above.

See notes to section 1 of the act, ante, § 3041.

R. S. § 1661, mentioned in this section, as amended by subsequent acts, is set forth ante, § 3064.
§ 3065. (Act May 11, 1908, c. 163.) Officers of organized militia not required to give bonds for funds for purchase of travel rations.

Officers of the organized militia who may hereafter be furnished, under proper authority, with funds for the purchase of coffee, or other components of the travel ration for the use of their respective commands, shall not be required to furnish bonds for the safekeeping and disbursement of the same. (35 Stat. 117.)

This was a proviso annexed to the appropriation for purchase of subsistence supplies in the Army appropriation act for the fiscal year 1906, cited above.

Officers of the organized militia, designated as disbursing officers, were required to give bonds, by section 14 of the Militia Act of 1903, ante, § 3064.

§ 3066. (Act Jan. 21, 1903, c. 196, § 15, as amended, Act May 27, 1908, c. 204, § 9, and Act April 21, 1910, c. 185.) Participation in encampments, maneuvers, etc., of Regular Army; pay, subsistence, and transportation during joint encampments, maneuvers, etc., appropriations therefor, and disbursement thereof; right to command.

The Secretary of War is authorized to provide for participation by any part of the organized militia of any State, Territory, or the District of Columbia, on the request of the governor of a State or Territory, or the commanding-general of the militia of the District of Columbia, in the encampments, maneuvers, and field instruction of any part of the Regular Army, at or near any military post or camp or lake or sea-coast defenses of the United States. In such case the organized militia so participating shall receive the same pay, subsistence, and transportation as is provided by law for the officers and men of the Regular Army, and no part of the sums appropriated for the support of the Regular Army shall be used to pay any part of the expenses of the organized militia of any State or Territory or the District of Columbia, while engaged in joint encampments, maneuvers, and field instruction of the Regular Army and militia: Provided, That the Secretary of War is authorized, under requisition of the governor of a State or Territory or the commanding-general of the militia of the District of Columbia, to pay to the quartermaster-general, or such other officer of the militia as may be duly designated and appointed for the purpose, so much of its allotment, under the annual appropriation authorized by section sixteen hundred and sixty-one, Revised Statutes, as amended, as shall be necessary for the payment, subsistence, transportation, and other expenses of such portion of the organized militia as may engage in encampments, maneuvers, and field instruction with any part of the Regular Army at or near any military post or camp or lake or sea-coast defenses of the United States, and the Secretary of War shall forward to Congress, at each session next after said encampments, a detailed statement of the expense of such encampments and maneuvers: Provided, That the command of such military post or camp and the officers and troops of the United States there stationed shall remain with the regular commander of the post without regard to the rank of the commanding or other officers of the militia temporarily (1206)
so encamped within its limits or in its vicinity: Provided further, That except as herein specified the right to command during such joint encampments, maneuvers, and field instruction shall be governed by the rules set out in Articles One hundred and twenty-two and One hundred and twenty-four of the rules and articles for the government of the armies of the United States. (32 Stat. 777. 35 Stat. 402. 36 Stat. 329.)

This section was part of the Militia Act of 1903, first cited above. See notes to section 1 of the act, ante, § 3941.

"The Secretary of War is hereby authorized to provide for participation by any part of the organized militia of any State or Territory on the request of the governor thereof in the encampment, maneuvers, and field instruction of any part of the Regular Army at or near any military post or camp or lake or seacoast defenses of the United States. In such case the organized militia so participating shall receive the same pay, subsistence, and transportation as is provided by law for the officers and men of the Regular Army, to be paid out of the appropriation for the pay, subsistence, and transportation of the Army: Provided, That the command of such military post or camp and of the officers and troops of the United States there stationed shall remain with the regular commander of the post without regard to the rank of the commanding or other officers of the militia temporarily so encamped within its limits or in its vicinity."

It was amended by Act May 27, 1908, c. 204, § 9, also cited above, to read as follows:

"The Secretary of War is authorized to provide for participation by any part of the organized militia of any State or Territory on the request of the governor thereof in the encampment, maneuvers, and field instruction of any part of the Regular Army at or near any military post or camp or lake or seacoast defenses of the United States. In such case the organized militia so participating shall receive the same pay, subsistence, and transportation as is provided by law for the officers and men of the Regular Army, and no part of the sums appropriated for the support of the Regular Army shall be used to pay any part of the expenses of the organized Militia of any State, Territory, or District of Columbia, while engaged in joint encampments, maneuvers, and field instruction of the Regular Army and Militia, but all payments to the militia under the provisions of this section and all allowances for mileage shall be made solely from the sums appropriated for such purposes: Provided, That the command of such military post or camp and the officers and troops of the United States there stationed shall remain with the regular commander of the post without regard to the rank of the commanding or other officers of the militia temporarily so encamped within its limits or in its vicinity: Provided further, That except as herein specified the right to command during such joint encampments, maneuvers, and field instruction shall be governed by the rules set out in articles one hundred and twenty-two and one hundred and twenty-four of the rules and articles for the government of the armies of the United States. The sums appropriated for the organized militia for such joint encampment, maneuvers, and field instruction shall be disbursed as, and for that purpose shall constitute, one fund: and the Secretary of War shall forward to Congress, at each session next after said encampment, a detailed statement of the expenses of such encampments and maneuvers."

It was further amended, to read as set forth here, by Act April 21, 1910, c. 185, last cited above.

Articles 122 and 124 of the Articles of War, mentioned in the last proviso to this section, which was added thereto by said amendment by Act May 27, 1908, c. 204, § 9, were amended by Act March 8, 1910, c. 88, previous to the amendment of this section by Act April 21, 1910, c. 185, and are set forth, as so amended, ante, §§ 2442, 2443.

Other provisions, similar to those of this section, relating to the ap-
§ 3066. PROVISIONS FOR THE MILITIA

Provisions out of which the pay, etc., of the organized militia engaged in joint encampments, etc., with the Regular Army is to be paid, and the disbursement thereof, contained in Act April 23, 1904, c. 1485, 33 Stat. 205, 267, and Act March 2, 1905, c. 1307, 33 Stat. 537, previous to the amendment of this section by Act May 27, 1908, c. 204, § 9, were superseded by the re-enactment of this section as so amended, and as further amended by Act April 21, 1910, c. 185, including the provisions on those subjects, as set forth here.

Any portion of the organized militia participating in the encampment, etc., of any part of the Regular Army, under the provisions of this section, may be paid at any time after being duly mustered by an officer of the Regular Army, by a provision of Act June 12, 1906, c. 3078, post, § 3067.

Officers of the organized militia furnished with funds for purchase of traveling rations were not to be required to give bond therefor, by a provision of Act May 11, 1908, c. 163, ante, § 3085.

Appropriations for the expenses of the organized militia participating in encampments for field instruction of troops of the Regular Army, as provided by this section and section 21 of this act, are made in the annual Army appropriation acts. The provision for the fiscal years 1914 and 1915 was by Act March 2, 1913, c. 93, 37 Stat. 710.

§ 3067. (Act June 12, 1906, c. 3078.) Payment of militia, for service in encampment, etc., after muster.

Hereafter when any portion of the organized militia of any State, Territory, or the District of Columbia participates in the encampment, maneuvers, and field instruction of any part of the Regular Army, under the provisions of section fifteen of the Act of January twenty-first, nineteen hundred and three, they may, after being duly mustered by an officer of the Regular Army, be paid at any time after such muster for the period from the date of leaving the home rendezvous to date of return thereto as determined in advance, both dates inclusive, and such payment, if otherwise correct, shall pass to the credit of the paymaster making the same. (34 Stat. 249.)

This was a proviso annexed to an appropriation for the expenses of the militia participating in such encampments, etc., in the Army appropriation act for the fiscal year 1903, cited above.

Section 15 of the Militia Act of Jan. 21, 1903, c. 196, mentioned in this provision, is set forth ante, § 3066.

§ 3068. (Act Jan. 21, 1903, c. 196, § 16, as amended, Act May 27, 1908, c. 204, § 10.) Allowances to officers and enlisted men of militia attending military schools.

Whenever any officer or enlisted man of the organized militia shall upon the recommendation of the governor of any State, Territory, or the commanding general of the District of Columbia militia, and when authorized by the President, attend and pursue a regular course of study at any military school or college of the United States, such officer or enlisted man shall receive from the annual appropriation for the support of the Army, the same travel allowances and quarters or commutation of quarters to which an officer or enlisted man of the Regular Army would be entitled for attending such school or college under orders from proper military authority; such officer shall also receive commutation and subsistence at the rate of one dollar per day and each enlisted man such subsistence as is fur-
nished to an enlisted man of the Regular Army while in actual attendance upon a course of instruction. (32 Stat. 778. 35 Stat. 402.)

This section was part of the Militia Act of 1903, first cited above.

See notes to section 1 of the act, ante, § 3041.

This section, as originally enacted, applied only to officers of the organized militia. It was amended to include enlisted men, making it read as set forth here, by section 10 of the Militia Act of 1908, last cited above.

§ 3069. (Act Jan. 21, 1903, c. 196, § 17.) Issue of Army stores, etc.; purchase of additional stores, etc., from War Department.

The annual appropriation made by section sixteen hundred and sixty-one, Revised Statutes, as amended, shall be available for the purpose of providing for issue to the organized militia any stores and supplies or publications which are supplied to the Army by any department. Any State, Territory, or the District of Columbia may, with the approval of the Secretary of War, purchase for cash from the War Department, for the use of its militia, stores, supplies, material of war, or military publications, such as are furnished to the Army, in addition to those issued under the provisions of this Act, at the price at which they are listed for issue to the Army, with the cost of transportation added, and funds received from such sales shall be credited to the appropriations to which they belong and shall not be covered into the Treasury, but shall be available until expended to replace therewith the supplies sold to the States and Territories and to the District of Columbia in the manner herein provided. (32 Stat. 778.)

This section was part of the Militia Act of 1903, cited above.

See notes to section 1 of the act, ante, § 3041.

R. S. § 1661, mentioned in this section, as amended by subsequent acts, is set forth ante, § 3054.

Previous provisions for the sale of stores and supplies to States and Territories, and for the application of the proceeds, of Act Feb. 24, 1897, c. 310, § 3, 29 Stat. 592, and Act March 15, 1898, c. 69, 30 Stat. 326, were superseded by the provisions of this section.

Subsequent provisions for the sale of rifles, and of ammunition, stores, and equipments, as prescribed in this section, for the use of rifle clubs, were made by Act March 3, 1905, c. 1416, post, §§ 3070, 3071.

The loan of vessels of the Navy to be used by the naval militia of a State was authorized by Act Aug. 3, 1894, c. 192, post, § 3073.


The Secretary of War is hereby authorized to sell, at the prices at which they are listed for the Army, upon the request of the governors of the several States and Territories, such magazine rifles belonging to the United States as are not necessary for the equipment of the Army and the organized militia, for the use of rifle clubs formed under regulations prepared by the national board for the promotion of rifle practice and approved by the Secretary of War. (33 Stat. 986.)

This section and the section next following were an act entitled "An act to promote the efficiency of the reserve militia and to encourage rifle practice among the members thereof."

(1209)

The Secretary of War is hereby authorized in his discretion to sell to the several States and Territories, as prescribed in section seventeen of the Act approved January twenty-first, nineteen hundred and three, for the use of said clubs, ammunition, ordnance stores, and equipments of the Government standard at the prices at which they are listed for the Army. The practice of the rifle clubs herein provided shall be carried on in conformity to regulations prescribed by the national board for the promotion of rifle practice, approved by the Secretary of War, and the results thereof shall be filed in the office of the Military Secretary of the Army. (33 Stat. 987.)

See note to section 1 of this act, ante, § 3041.

Section 17 of the Militia Act of Jan. 21, 1903, c. 196, mentioned in this section, is set forth ante, § 3069.

The recent Army appropriation acts provide for a national trophy and medals and prizes to be contested for annually, said contest to be open to the Army, Navy, Marine Corps, and the National Guard or organized militia of the several States, Territories, and of the District of Columbia. The provision for the fiscal year 1914 was by Act March 2, 1913, c. 93, 37 Stat. 721.

§ 3072. (Act Jan. 21, 1903, c. 196, § 18.) Annual practice marches or camps of instruction, drill or target practice, and inspection, required before annual allotment of funds.

Each State or Territory furnished with material of war under the provisions of this or former Acts of Congress shall, during the year next preceding each annual allotment of funds, in accordance with section sixteen hundred and sixty-one of the Revised Statutes as amended, have required every company, troop, and battery in its organized militia not excused by the governor of such State or Territory to participate in practice marches or go into camp of instruction at least five consecutive days, and to assemble for drill and instruction at company, battalion, or regimental armories or rendezvous or for target practice not less than twenty-four times, and shall also have required during such year an inspection of each such company, troop, and battery to be made by an officer of such militia or an officer of the Regular Army. (32 Stat. 778.)

This section was part of the Militia Act of 1903, cited above.

See notes to section 1 of the act, ante, § 3041.

R. S. § 1661, mentioned in this section, is set forth, as amended by subsequent acts, ante, § 3054.

§ 3073. (Act Jan. 21, 1903, c. 196, § 19.) Detail of officers of Army to attend encampments of militia; reports.

Upon the application of the governor of any State or Territory furnished with material of war under the provisions of this Act or former laws of Congress, the Secretary of War may detail one or more officers of the Army to attend any encampment of the organized militia, and to give such instruction and information to the officers and men assembled in such camp as may be requested by the governor. Such officer or officers shall immediately make a report of such encampment to the Secretary of War, who shall furnish a
copy thereof to the governor of the State or Territory. (32 Stat. 778.)

This section was part of the Militia Act of 1903, cited above.
See notes to section 1 of the act, ante, § 3054.

§ 3074. (Act Jan 21, 1903, c. 196, § 20, as amended, Act May 27, 1908, c. 204, § 11.) Detail of officers or enlisted men of Army for duty in connection with organized militia; board of officers of militia for consultation with Secretary of War respecting condition, etc., of organized militia.

Upon the application of the governor of any State or Territory furnished with material of war under the provisions of this Act, or former laws of Congress, the Secretary of War may, in his discretion, detail one or more officers or enlisted men of the Army to report to the governor of such State or Territory for duty in connection with the organized militia. All such assignments may be revoked at the request of the governor of such State or Territory or at the pleasure of the Secretary of War. The Secretary of War is hereby authorized to appoint a board of five officers on the active list of the organized militia so selected as to secure, as far as practicable, equitable representation to all sections of the United States, and which shall, from time to time, as the Secretary of War may direct, proceed to Washington, District of Columbia, for consultation with the Secretary of War respecting the condition, status, and needs of the whole body of the organized militia. Such officers shall be appointed for the term of four years unless sooner relieved by the Secretary of War.

The actual and necessary traveling expenses of the members of the board, together with a per diem to be established by the Secretary of War, shall be paid to the members of the board. The expenses herein authorized, together with the necessary clerical and office expenses of the division of militia affairs in the office of the Secretary of War, shall constitute a charge against the whole sum annually appropriated under section sixteen hundred and sixty-one, Revised Statutes, as amended, and shall be paid therefrom, and not from the allotment duly apportioned to any particular State, Territory, or the District of Columbia; and a list of such expenses shall be submitted to Congress annually by the Secretary of War in connection with his annual report. (32 Stat. 779. 35 Stat. 403.)

This section was part of the Militia Act of 1903, first cited above.
See notes to section 1 of the act, ante, § 3041.

This section, as originally enacted, provided only for the detail of officers of the Army for duty in connection with the organized militia. It was amended, by including enlisted men in said provisions, and by adding at the end of the section the provisions for the appointment of a board of militia officers for consultation with the Secretary of War, beginning with the words “The Secretary of War is hereby authorized,” etc., to the end of the section as set forth here, by the Militia Act of 1908, last cited above.

R. S. § 1661, mentioned in the last paragraph of this section as so amended, is set forth, as amended by subsequent acts, ante, § 3054.

The detail or assignment of retired officers of the Army for service with the organized militia in the States or Territories was authorized, and their compensation while so employed was regulated, by provisions of Act March 2,
§ 3074. THE MILITIA

1903, c. 973, Act April 23, 1904, c. 1485, and Act March 2, 1905, c. 1307, ante. §§ 2077, 2078, 2080.

Appropriations are made in the annual legislative, executive, and judicial appropriation acts, for the Division of Militia Affairs, Office of the Chief of Staff, in the War Department, for a chief clerk and other clerks and employees, and also for miscellaneous expenses to be paid from the permanent appropriation under R. S. § 1901, ante, § 3054. The provisions for the fiscal year 1914 were by Act March 4, 1913, c. 142, § 1, 37 Stat. 705.

§ 3075. (Act Jan. 21, 1903, c. 196, § 21.) Ammunition for instruction in firing and target practice.

The troops of the militia encamped at any military post or camp of the United States may be furnished such amounts of ammunition for instruction in firing and target practice as may be prescribed by the Secretary of War, and such instruction in firing shall be carried on under the direction of an officer selected for that purpose by the proper military commander. (32 Stat. 779.)

This section was part of the Militia Act of 1903, cited above.

See notes to section 1 of the act, ante, § 3041.

§ 3076. (Act Jan. 21, 1903, c. 196, § 22.) Pension for disabilities incurred or in case of death in service of the United States.

When any officer, noncommissioned officer, or private of the militia is disabled by reason of wounds or disabilities received or incurred in the service of the United States he shall be entitled to all the benefits of the pension laws existing at the time of his service, and in case such officer, noncommissioned officer, or private dies in the service of the United States or in returning to his place of residence after being mustered out of such service, or at any time, in consequence of wounds or disabilities received in such service, his widow and children, if any, shall be entitled to all the benefits of such pension laws. (32 Stat. 779.)

This section was part of the Militia Act of 1903, cited above.

See notes to section 1 of the act, ante, § 3041.
The pension laws are contained in Title LVII, "Pensions."

§ 3077. (Act Jan. 21, 1903, c. 196, § 24.) Organization of volunteer forces.

All the volunteer forces of the United States called for by authority of Congress shall, except as hereinbefore provided, be organized in the manner provided by the Act entitled "An Act to provide for temporarily increasing the military establishment of the United States in time of war, and for other purposes," approved April twenty-second, eighteen hundred and ninety-eight. (32 Stat. 780.)

This section was part of the Militia Act of 1903, cited above.

See notes to section 1 of the act, ante, § 3041.

Act April 22, 1898, c. 187, mentioned in this section, providing for the organization of a Volunteer Army, and subsequent provisions relating to the same subject, and the provisions for commissions in the volunteer forces contained in section 3 of this act, are set forth ante, §§ 2021-2044.

§ 3078. (Act Aug. 3, 1894, c. 192.) Vessels for naval militia of States.

The Secretary of the Navy be, and is hereby, authorized and empowered to loan temporarily to any State, upon the written ap-
application of the governor thereof, a vessel of the Navy, to be selected from such vessels as are not suitable or required for general service, together with such of her apparel, charts, books, and instruments of navigation as he may deem proper; said vessel to be used only by the regularly organized naval militia of the State for the purposes of drill and instruction: Provided, That when the organization of the naval militia of such State shall be abandoned, or when the interests of the naval service shall so require, such vessel, together with her apparel, charts, books, and instruments of navigation, shall be immediately restored to the custody of the Secretary of the Navy: And provided further, That when such loan is made to the governor of any State, the Secretary of the Navy is authorized to detail from the enlisted force of the Navy a sufficient number of men, not exceeding six for any vessel, as shipkeepers, the men so detailed to be additional to the number of enlisted men allowed by law for the naval establishment, and in making details for this service preference shall be given to those men who have served twenty years or more in the Navy. (28 Stat. 219.)

This was an act entitled "An act to promote the efficiency of the Naval Militia."

Appropriations are made by the naval appropriation acts for recent years for arming and equipping the naval militia. The provision for the fiscal year 1914 was by Act March 4, 1913, c. 145, 37 Stat. 807.

(1213)
TITLE XVII
ARMS, ARMORIES, AND ARSENALS, AND ORDNANCE AND FORTIFICATIONS

This title, as enacted in the Revised Statutes, was not divided into chapters. For convenience, the sections thereof remaining in force and subsequent provisions which relate to arms and other ordnance, and to armories and arsenals generally, are placed in chapter A; and provisions applicable only to the Board of Ordnance and Fortification are placed in chapter B.

Chap. A. Arms, Armories, andArsenals ........................................ 3079
  B. Board of Ordnance and Fortification ............................. 3111

CHAPTER A
Arms, Armories, and Arsenals

3079. Armories, officers, workmen.
3080. Pay of officers, clerks, etc., at armories.
3081. Additional compensation of master armorer at Springfield armory.
3082. Salaries of clerks at Springfield armory.
3083. When paid; who to give bond.
3084. Payments to be made monthly; computation of amount.
3085. Annual accounts to Congress.
3086. Arsenals may be abolished.
3087. Workmen guilty of certain misconduct.
3088. Exemption from service as jurors.
3089. Inventions by army officers; no money to be expended therefor at armories.
3090. Reward for suggestions by employees of Ordnance Department for improvements, etc.; release.
3091. Rifled cannon to be tested.
3092. Rifled cannon for Navy to be tested.
3093. Arms and ammunition to be furnished to Departments to protect public property.
3094. Ordnance and ordnance stores to be issued to Washington High School.

3095. Obsolete ordnance and ordnance stores may be issued to State educational institutions, and soldiers' and sailors' orphans' homes.
3096. Sales of articles of ordnance property to educational institutions and soldiers' and sailors' orphans' homes.
3097. Ammunition of old model to be issued to institutions to which issue of artillery is authorized.
3098. Sale of obsolete small arms, etc., to patriotic organizations.
3099. Sale of smooth-bore cannon for experimental purposes.
3100. Sale of ordnance and ordnance stores to designers.
3101. Issue of condemned ordnance, etc., and ordnance stores, to Homes for Disabled Volunteer Soldiers.
3102. Loan or gift of condemned ordnance, guns, etc., to soldiers' monument associations, etc.
3103. Sales of obsolete ordnance for public parks, public buildings and soldiers' monuments.
3104. Sale of individual pieces of armament.
3105. Sales of articles of ordnance property to officers of Navy and Marine Corps.

(1214)
Ch. A) ARMS, ARMORIES, AND ARSENALS § 3082

Sec. 3106. Sales of ordnance stores to civilian employés and others.
Sec. 3109. Machine for testing iron and steel; private use; fees.
Sec. 3107. Application of moneys arising from disposition of serviceable ordnance and ordnance stores.
Sec. 3110. Machine for testing iron and steel; private use; reports of tests; fees; tests submitted by American Society of Civil Engineers.
Sec. 3108. Payment for transfers or sales of ordnance or ordnance stores to other bureaus or departments; price.

§ 3079. (R. S. § 1662.) Armories, officers, workmen.
At each arsenal there shall be established a national armory, in which there shall be employed one superintendent, who shall be an officer of the Ordnance Department, to be designated by the President; one master-armorer, who shall be appointed by the President, and as many workmen as the Secretary of War may, from time to time, deem necessary.


§ 3080. (R. S. § 1663.) Pay of officers, clerks, etc., at armories.
The ordnance officer in charge of any national armory shall receive no compensation other than his regular pay as an officer of the corps; the master-armorers shall receive fifteen hundred dollars per annum each; the inspectors and clerks, each, eight hundred dollars per annum, except the clerks of the armory at Springfield, Massachusetts, [who may receive, at the discretion of the Secretary of War, twelve hundred dollars per annum].

The last clause of this section, enclosed in brackets, relating to the pay of the clerks of the armory at Springfield, Mass., was superseded by provisions fixing their salaries, of Act June 23, 1874, c. 486, post, § 3082.
A provision for additional compensation to the master armorer at the armory at Springfield, Mass., was made by Act Aug. 5, 1883, c. 395, post, § 3081.

In addition to the compensation now allowed and paid to the master armorer at the national armory in Springfield, Massachusetts, there shall be paid to him, from and after the passage of this act, further compensation at the rate of one thousand dollars per annum during such time as he shall perform the duties of master machinist at said armory in addition to those of master armorer. (22 Stat. 299.)

This was an act entitled "An act to fix the compensation of the master armorer at the National armory in Springfield, Massachusetts."

§ 3082. (Act June 23, 1874, c. 486.) Salaries of clerks at Springfield armory.
On and after the passage of this act, in lieu of the compensation now allowed to the clerks at the United States armory in Springfield, Massachusetts, including fuel and quarters, there shall (1215)
be paid to each of said clerks an annual salary of one thousand six hundred and fifty dollars. (18 Stat. 282.)

This was an act entitled "An act to fix salaries of the clerks of the United States armory at Springfield, Massachusetts."

§ 3083. (R. S. § 1664.) When paid; who to give bond.

The several compensations fixed by the preceding section for master-armorers and inspectors shall be paid quarter-yearly. All [military store-keepers and] paymasters shall give bond and security for the faithful discharge of their duties, in such sum as may be prescribed by the Secretary of War.


The words of this section included in brackets, "military storekeepers and," were superseded, the office of storekeeper in the Quartermaster's Department and Ordnance Department of the Army ceasing to exist, pursuant to a proviso annexed to the provisions prescribing the composition of the Army, of Act Feb. 2, 1901, c. 192, § 1, ante, § 1717.

The preceding section mentioned in this section was R. S. § 1663, ante, § 3080.

The provision that compensations shall be paid "quarter-yearly" was superseded by the provision for monthly payment made by Act April 23, 1904, c. 1495, post, § 3084.

Similar provisions for bonds were made by R. S. §§ 1191, 1192, ante, §§ 1906, 1907.

§ 3084. (Act April 23, 1904, c. 1485.) Payments to be made monthly; computation of amount.

Hereafter all employees of the Ordnance Department whose rate of compensation is annual shall be paid monthly at the rate of one-twelfth of the annual rate, and of such monthly rate and of all other monthly rates of compensation one-thirtieth shall be the daily rate for computation of pay for fractional parts of a month; and for the purposes of this provision each and every month shall be held to consist of thirty days, whether the actual number of days be greater or less. (33 Stat. 276.)

This was a provision of the Army appropriation act for the fiscal year 1906, cited above.

A similar provision relating to all payments under provisions of Army appropriation acts, when the rate of compensation is annual, was made by Act March 2, 1906, c. 975, 32 Stat. 934.

Subsequent more specific provisions for computation of pay of any person in the military service where the compensation is annual or monthly, were made by Act June 12, 1906, c. 3078, ante, § 2155.

Similar rules for computation of the compensation of any person in the service of the United States were prescribed by Act June 30, 1906, c. 3914, § 6, post, § 3243.

§ 3085. (R. S. § 1665.) Annual accounts to Congress.

An annual account of the expenses of the national armories shall be laid before Congress, together with an account of the arms made and repaired therein.

Act April 2, 1794, c. 14, § 5, 1 Stat. 352.

Provisions for annual reports to Congress by the Board of Ordnance through the Secretary of War were made by Act Feb. 24, 1891, c. 283, § 1, post, § 3112.

(1216)
§ 3086. (R. S. § 1666.) Arsenals may be abolished.
The Secretary of War is authorized to abolish such of the arsenals of the United States as, in his judgment, may be useless or unnecessary.

Act March 3, 1833, c. 98, § 1, 10 Stat. 214, 217.
The arsenal at Detroit, Mich., was authorized to be sold, by Act March 3, 1875, c. 174, 18 Stat. 510.

(R. S. § 1667. Superseded.)
This section was as follows:

"All the arms procured in virtue of any appropriation authorized by law for the purpose of providing arms and equipments for the whole body of the militia of the United States shall be annually distributed to the several states of the Union according to the number of their Representatives and Senators in Congress, respectively; and all arms for the Territories and the District of Columbia shall be annually distributed in such quantities and under such regulations, as the President may prescribe. All such arms are to be transmitted to the several states and territories by the United States."

It was superseded by more comprehensive provisions of the same nature made by Act Feb. 13, 1857, c. 129, § 2, as amended, Act June 22, 1906, c. 3515, § 2, and Act Jan. 21, 1903, c. 196, § 45, as amended, Act May 27, 1906, c. 294, § 8, ante, §§ 3055, 3059.

See notes to said provisions, ante, §§ 3055, 3059.


Authority to replace ordnance and ordnance stores which the volunteers from any state or territory carried into the service of the United States Army during the war with Spain, and which were retained by the United States, was given by provisions of Act March 3, 1899, c. 423, § 1, 30 Stat. 1073, and Act May 29, 1900, c. 826, 31 Stat. 217. They are omitted as temporary merely.

Sales of magazine rifles, ammunition, ordnance stores, and equipments, for the use of rifle clubs, were authorized by Act March 3, 1905, c. 1418, ante, § 3070.

The issue of obsolete ordnance and ordnance stores to State and Territorial educational institutions and to State soldiers and sailors orphans' homes was authorized by Act June 30, 1906, c. 3358, post, § 3065; sales of articles of ordnance property to such institutions for maintaining the ordnance, etc., issued to them, were authorized by a provision of Act May 11, 1908, c. 163, post, § 3096; and the issue of ammunition of old model for target practice of students at said institutions was authorized by a provision of Act March 3, 1909, c. 253, post, § 3097.

Sales of surplus obsolete small arms, etc., to patriotic organizations for military purposes were authorized by Act May 28, 1908, c. 215, § 14, post, § 3088.
Sales of surplus obsolete cannon, etc., for public parks, public buildings, and soldiers' monuments were authorized by Act March 4, 1909, c. 319, § 47, post, § 3103.
Sales of ordnance stores, etc., by the Chief of Ordnance to civilian employees in the Army and others, and to officers of the Navy and Marine Corps, were authorized by Act March 3, 1909, c. 252, post, §§ 3105, 3106.

(R. S. § 1668. Repealed.)
This section, making it a crime to entice away workmen, was incorporated into the Criminal Code, § 43, post, § 10207, and was repealed by section 841 thereof, post, § 10615.

§ 3087. (R. S. § 1669.) Workmen guilty of certain misconduct.
If any artificer or workman, hired, retained, or employed in any public arsenal or armory, wantonly and carelessly breaks, impairs,

Comp. St. '13—77

(1217)
§ 3087. ARMS, ARMORIES, AND ARSENALS

or destroys any implements, tools, or utensils, or any stock, or materials for making guns, the property of the United States, or willfully and obstinately refuses to perform the services lawfully assigned to him, pursuant to his contract, he shall forfeit a sum not exceeding twenty dollars for every such act of disobedience or breach of contract, to be recovered in any court having competent jurisdiction thereof.

Act May 7, 1800, c. 46, § 3, 2 Stat. 62.

(R. S. § 1670. Temporary.)

This section was as follows:

"The Secretary of War is authorized and directed to distribute to such states as did not receive the same, their proper quota of arms and military equipments for each year, from eighteen hundred and sixty-two to eighteen hundred and sixty-nine, under the provisions of section sixteen hundred and sixty-one: Provided, that in the organization and equipment of military companies and organizations with such arms, no discrimination shall be made between companies and organizations on account of race, color or former condition of servitude."

It is omitted as temporary merely, and executed.

§ 3088. (R. S. § 1671.) Exemption from service as jurors.

All artificers and workmen employed in the armories and arsenals of the United States shall be exempted, during their time of service, from service as jurors in any court.


(R. S. §§ 1672, 1673. Superseded.)

R. S. § 1672, provided that the "Springfield breach-loading system" should be the only system to be used by the Ordnance Department in the manufacture of muskets and carbines for the military service.

R. S. § 1673, provided that no royalty should be paid by the United States to any of its officers or employees for the use of any patents for said system, or any part thereof, nor for any such patent in which said officers or employees should be directly or indirectly interested.

Both sections were superseded by the provisions establishing the Board of Ordnance and Fortification, and authorizing it to make tests to ascertain the most effective guns, small arms, etc., made by Act Sept. 22, 1888, c. 1028, post, §§ 3111-3115; and subsequent provisions making appropriations for the manufacture, etc., of arms, to be applicable to the manufacture of a magazine arm, recommended by the small-arms board, and adopted by the Secretary of War. See Act July 16, 1892, c. 195, 27 Stat. 182; Act Aug. 6, 1894, c. 228, 28 Stat. 242; Act Feb. 12, 1896, c. 83, 28 Stat. 603; Act March 18, 1896, c. 59, 28 Stat. 68; Act March 2, 1897, c. 302, 29 Stat. 617; Act March 15, 1898, c. 69, 30 Stat. 326.

Provisions for the issue of Springfield rifles to the several States and Territories for arming the militia, made by Act Feb. 24, 1807, c. 310, §§ 1, 2, 29 Stat. 592, were superseded by the provisions of section 13 of the Militia Act of Jan. 21, 1903, c. 195, ante, § 3059.

Expenditure of money at armories in the perfection of patentable inventions in the manufacture of arms by officers of the Army was also forbidden by a provision of Act March 3, 1875, c. 133, post, § 3089.

§ 3089. (Act March 3, 1875, c. 133, § 1.) Inventions by army officers; no money to be expended therefor at armories.

For manufacture at national armories: * * * Provided, that here-
after no money shall be expended at said armories in the perfection of patentable inventions in the manufacture of arms by officers of the Army otherwise compensated for their services to the United States. (18 Stat. 455.)

This was a proviso annexed to the appropriation for manufacture of arms at national armories, in the Army appropriation act for the fiscal year 1876, cited above.

§ 3090. (Act July 17, 1912, c. 236.) Reward for suggestions by employees of Ordnance Department for improvements, etc.; release.

The Secretary of War is hereby authorized to offer periodically at such of the establishments of the Ordnance Department as he may select a cash reward for the suggestion, or series of suggestions, for an improvement or economy in manufacturing processes or plant, submitted within the period by one or more employees of the establishment which shall be deemed the most valuable of those submitted and adopted for use: Provided, That to obtain this reward the winning suggestion must be one that will clearly effect a material economy in production or increase efficiency or enhance the quality of the product in comparison with its cost and in the opinion of the Secretary shall be so worthy as to entitle the employee making the same to receive the reward: Provided further, That the sums awarded to employees in accordance with this Act shall be paid them in addition to their usual compensation and shall constitute part of the general or shop expense of the establishment: Provided further, That the total amount paid under the provisions of this Act shall not exceed one thousand dollars for any one month: And provided further, That no employee shall be paid a reward under this Act until he has properly executed an agreement to the effect that the use by the United States of the suggestion, or series of suggestions, made by him shall not form the basis of a further claim of any nature upon the United States by him, his heirs, or assigns, and that application for patent has not been made for the invention. (37 Stat. 193.)

This was an act entitled "An act authorizing the Secretary of War to pay a cash reward for suggestions by employees of certain establishments of the Ordnance Department for improvement or economy in manufacturing processes or plant."

§ 3091. (Act July 5, 1884, c. 235, § 2.) Rifled cannon to be tested.

Hereafter all rifled cannon of any particular material, caliber, or kind, made at the cost of the United States shall be publicly subjected to the proper test including such rapid firing as a like gun would be likely to be subjected to in actual battle for the determination of the endurance of the same to the satisfaction of the President of the United States or such persons as he may select; and he is hereby authorized to select not to exceed five persons, who shall be skilled in such matters; and if such gun shall not prove satisfac-
§ 3091. ARMS, ARMORIES, AND ARSENALS

Tory, they shall not be put to use in the Government service. (23 Stat. 159.)

This section was part of the fortifications appropriation act of July 5, 1884, c. 235, cited above.

Similar provisions for tests of rifled cannon for the Navy were made by Act July 26, 1886, c. 781, § 1, post, § 3092.

Subsequent provisions for tests by the Board of Ordnance and Fortification were made by Act Sept. 22, 1888, c. 1028, § 6, post, § 3115.

The recent fortifications appropriation acts provide for necessary expenses of officers while temporarily employed on ordnance duties at the proving ground and absent from their proper stations, at the rate of $2.50 per diem. The provision for the fiscal year 1914 was by Act Feb. 13, 1913, c. 51, 37 Stat. 672.

§ 3092. (Act July 26, 1886, c. 781, § 1.) Rifled cannon for Navy to be tested.

One or more rifled cannon of each type constructed at the cost of the United States for the Navy shall be publicly subjected to the proper test for endurance including such rapid firing as a like gun would be subjected to in battle. This test shall be under the direction and to the satisfaction of the Secretary of the Navy, and if such guns do not prove satisfactory, the type they represent shall not be put in use in the naval service. (24 Stat. 151.)

This was a provision of the naval appropriation act for the fiscal year 1887, cited above.

Similar provisions applicable to all rifled cannon of any particular material, caliber, or kind, made at the cost of the United States, were made by Act July 5, 1884, c. 235, § 2, ante, § 3091.

Subsequent provisions for tests by the Board of Ordnance and Fortification were made by Act Sept. 22, 1888, c. 1028, § 6, post, § 3115.

§ 3093. (Act March 3, 1879, c. 183.) Arms and ammunition to be furnished to Departments to protect public property.

Upon the request of the head of any department, the Secretary of War be, and he hereby is, authorized and directed to issue arms and ammunition whenever they may be required for the protection of the public money and property, and they may be delivered to any officer of the department designated by the head of such department, to be accounted for to the Secretary of War, and to be returned when the necessity for their use has expired. Arms and ammunition heretofore furnished to any department by the War Department, for which the War Department has not been reimbursed, may be receipted for under the provisions of this act. (20 Stat. 410.)

This was a provision of the deficiency appropriation act for the fiscal year 1879, cited above.

§ 3094. (Res. Feb. 5, 1891, No. 9.) Ordnance and ordnance stores to be issued to Washington High School.

The Secretary of War is authorized to issue, at his discretion and under proper regulations to be prescribed by him, out of ordnance and ordnance stores belonging to the Government, and which can be spared for that purpose, such as may appear to be required for military instruction and practice by the students of the High School of Washington, District of Columbia, and the Secretary shall re-
quire a bond in each case, in double the value of the property, for
the care and safe keeping thereof, and for the return of the same
when required. (26 Stat. 1113.)

§ 3095. (Act June 30, 1906, c. 3938.) Obsolete ordnance and ord-
nance stores may be issued to State educational institutions,
and soldiers' and sailors' orphans' homes.

The Secretary of War is hereby authorized to issue, at his dis-
cretion and under proper regulations to be prescribed by him,
without cost of transportation to the United States, such obsolete
ordnance and ordnance stores as may be available to State and
Territorial educational institutions and to State soldiers and sailors or-
phans' homes, for purposes of drill and instruction.

And the Secretary of War shall require from such institutions or
homes a bond in each case in double the value of the property issued,
for the care and safe-keeping thereof and for the return of the same
to the United States when required: Provided, That the issues herein
provided for shall be made only to institutions upon recommendation
of the governors of States and Territories and shall not be made in any
case to any educational institution to which issues of such stores are
allowed to be made under provisions of existing law. (34 Stat.
817.)

This was an act entitled "An act authorizing the issue of obsolete ord-
nance and ordnance stores for use of State and Territorial educational in-
sstitutions and to State soldiers' and sailors' orphans' homes."

Sales of articles of ordnance property for maintaining the ordnance, etc.,
issued under this act were authorized by a provision of Act May 11, 1908, c.
163, post, § 8066; and the issue of ammunition of old model for target prac-
tice of students at institutions to which the issue of artillery was authorized,
was permitted by a provision of Act March 3, 1909, c. 251, post, § 8097.

§ 3096. (Act May 11, 1908, c. 163.) Sales of articles of ordnance
property to educational institutions and soldiers' and sailors'
orphans' homes.

Sales of articles of ordnance property are authorized to educational
institutions and State soldiers' and sailors' orphans' homes for main-
taining the ordnance and ordnance stores issued to them. (35
Stat. 125.)

This was a provision of the Army appropriation act for the fiscal year 1909,
cited above.
The issue of obsolete ordnance and ordnance stores to educational, and other
institutions was authorized by Act June 30, 1906, c. 3938, ante, § 3095.

§ 3097. (Act March 3, 1909, c. 251.) Ammunition of old model to
be issued to institutions to which issue of artillery is authorized.

Hereafter ammunition of older model than current may be issued for
the instruction in target practice of students at the institutions
to which the issue of artillery is authorized to the value of not more
than five thousand dollars of original cost in any one year. (35
Stat. 730.)

This was a provision of the fortifications appropriation act, cited above.
A similar provision, without the word "hereafter," was contained in the
similar act of the preceding year, Act May 27, 1908, c. 202, 35 Stat. 305.

(1221)
§ 3098. (Act May 28, 1908, c. 215, § 14.) Sale of obsolete small arms, etc., to patriotic organizations.

The Chief of Ordnance is hereby authorized to sell without advertisement to patriotic organizations for military purposes surplus obsolete small arms and their equipments and ammunition at such prices as he may deem reasonable and just: Provided, That hereafter obsolete small arms and their equipment and ammunition shall not be disposed of to such organizations except as provided for in this Act. (35 Stat. 443.)

This was the final section of an act granting condemned ordnance to certain institutions, cited above.


The Secretary of War and the Secretary of the Navy are hereby authorized to sell to projectors of methods of conversion, for experimental purposes only, any smooth-bore cannon on hand required by them, at prices which shall not be less than have been received from auction sales for such articles, and deliver the same, at the cost of the Government, at the nearest convenient place for shipment or public transportation; the cost of delivery to be deducted from the proceeds of sales, and the balance to be covered into the Treasury of the United States. (23 Stat. 159.)

This section was part of the fortifications appropriation act of July 5, 1884, cited above.

§ 3100. (Act April 23, 1904, c. 1485.) Sale of ordnance and ordnance stores to designers.

The Secretary of War is hereby authorized to sell to American designers such serviceable ordnance and ordnance stores as may be necessary in the development of designs which may be used in the military service: Provided, That such ordnance and ordnance stores can be spared for the purpose, and funds arising from such sales shall be available to replace like ordnance and ordnance stores. (33 Stat. 276.)

This was a provision of the Army appropriation act for the fiscal year 1905, cited above.

§ 3101. (Act March 3, 1899, c. 423.) Issue of condemned ordnance, etc., and ordnance stores, to Homes for Disabled Volunteer Soldiers.

The Chief of Ordnance is authorized to issue such obsolete or condemned ordnance, gun carriages and ordnance stores, as may be needed for ornamental purposes, to the Homes of Disabled Volunteer Soldiers, the Homes to pay for transportation and such other expenses as are necessary. (30 Stat. 1073.)

This was a provision annexed to an appropriation for ordnance, ordnance stores, and supplies, in the army appropriation act for the fiscal year 1900, cited above.

§ 3102. (Act May 22, 1896, c. 231.) Loan or gift of condemned ordnance, guns, etc., to soldiers' monument associations, etc.

The Secretary of War and the Secretary of the Navy are each hereby authorized, in their discretion, to loan or give to soldiers' (1222)
monument associations, posts of the Grand Army of the Republic, and municipal corporations, condemned ordnance, guns, and cannon balls which may not be needed in the service of either of said Departments.

Such loan or gift shall be made subject to rules and regulations covering the same in each Department, and the Government shall be at no expense in connection with any such loan or gift. (29 Stat. 133.)

This was an act entitled "An act to authorize the Secretary of War and the Secretary of the Navy to make certain disposition of condemned ordnance, guns, and cannon balls in their respective departments."

§ 3103. (Act March 4, 1909, c. 319, § 47.) Sales of obsolete ordnance for public parks, public buildings and soldiers' monuments.

The Chief of Ordnance is hereby authorized to sell without advertisement for public parks, public buildings, and soldiers' monuments purposes surplus obsolete brass or bronze cannon, carriages, and cannon balls at such prices as he may deem reasonable and just: Provided, That hereafter obsolete brass or bronze cannon and their accessories shall not be disposed of for such purposes except as provided for in this Act. (35 Stat. 1075.)

This was the final section of an act granting certain obsolete ordnance for ornamental purposes, cited above.

§ 3104. (Act March 2, 1905, c. 1307.) Sale of individual pieces of armament.

Individual pieces of United States armament which are not needed on account of historical value, and can be advantageously replaced, may be sold at a price not less than their cost price, when there exist for such sale sentimental reasons adequate in the judgment of the Secretary of War or Secretary of the Navy. (33 Stat. 841.)

This was a provision of the Army appropriation act for the fiscal year 1906, cited above.

A provision of the same act, immediately preceding this, relating to moneys arising from deductions made from carriers on account of loss of or damage to military stores, is set forth ante, § 1905.

§ 3105. (Act March 3, 1909, c. 252.) Sales of articles of ordnance property to officers of Navy and Marine Corps.

Articles of ordnance property may be sold by the Chief of Ordnance to officers of the Navy and Marine Corps, for their use in the public service, in the same manner as these articles are now sold to officers of the army. (35 Stat. 751.)

This was a provision of the Army appropriation act for the fiscal year 1910, cited above.

§ 3106. (Act March 3, 1909, c. 252.) Sales of ordnance stores to civilian employés and others.

Sales of ordnance stores are authorized to civilian employees of the army and to The American National Red Cross under such regulations as may be prescribed by the Secretary of War. (35 Stat. 750.)

This was a provision of the Army appropriation act for the fiscal year 1910, cited above.

(1223)
§ 3107. (Act April 23, 1904, c. 1485.) Application of moneys arising from disposition of serviceable ordnance and ordnance stores.

Hereafter all moneys arising from disposition authorized by law and regulation of serviceable ordnance and ordnance stores shall constitute one fund on the books of the Treasury Department, which shall be available to replace ordnance and ordnance stores throughout the fiscal year in which the disposition was effected and throughout the following year. (33 Stat. 276.)

This was a provision of the Army appropriation act for the fiscal year 1906, cited above.

Provisions for the sale, by the Secretary of War, of all obsolete and unserviceable ammunition, etc., then stored in the various arsenals, were made by Act June 22, 1874, c. 413, 18 Stat. 200, and a subsequent appropriation of an amount equal to the net proceeds of such sale to procure material adapted to the wants of the service, was made by Act March 3, 1875, c. 130, § 1, 18 Stat. 888. These provisions are omitted, as temporary merely, and executed.

Certain specified appropriations for ordnance stores, etc., were also made available for two years, to procure the stores authorized by them, by a provision of Act March 2, 1907, c. 2611, post, § 6768.

§ 3108. (Act Aug. 24, 1912, c. 391.) Payment for transfers or sales of ordnance or ordnance stores to other bureaus or departments; price.

Hereafter when authorized transfers or sales of ordnance or ordnance stores are made to another bureau of the War Department, or to another executive department of the Government, payment therefor shall be made by the proper disbursing officer of the bureau, office, or department concerned. When the transaction is between two bureaus of the War Department, the price to be charged shall be the cost price of the stores, including the cost of inspection. When the transaction is between the Ordnance Department and another executive department of the Government, the price to be charged shall include the cost price of the stores and the costs of inspection and transportation. (37 Stat. 589.)

This was a proviso of the Army appropriation act for the fiscal year 1913, cited above.

§ 3109. (Act June 20, 1878, c. 359, § 1.) Machine for testing iron and steel; private use; fees.

The Secretary of War is hereby authorized to cause the machine built for testing iron and steel to be set up and applied to the testing of iron and steel for all persons who may desire to use it, upon the payment of a suitable fee for each test; the table of fees to be approved by the Secretary of War, and to be so adjusted from time to time as to defray the actual cost of the tests as near as may be. (20 Stat. 223.)

This was a provision of the sundry civil appropriation act for the fiscal year 1878, cited above.

§ 3110. (Act March 3, 1885, c. 360, § 1.) Machine for testing iron and steel; private use; reports of tests; fees; tests submitted by American Society of Civil Engineers.

Hereafter the tests of iron and steel and other materials for (1224)
industrial purposes shall be continued, and report thereof shall be 
made to Congress: And provided further, That in making tests 
for private citizens the officer in charge may require payment in 
advance, and may use the funds so received in making such private 
tests, making full report thereof to the Chief of Ordnance; and 
the Chief of Ordnance shall give attention to such programme 
of tests as may be submitted by the American Society of Civil En-
gineers, and the record of such tests shall be furnished said society, 
to be by them published at their own expense. (23 Stat. 478.)

These provisions were annexed to an appropriation for caring for, using, 
etc., the testing machine, in the sundry civil appropriation act for the fiscal 
year 1886, cited above.

A provision in Act May 27, 1908, c. 200, § 1, 35 Stat. 354, transferring the 
testing machines at the Watertown Arsenal to the Department of Commerce 
and Labor, was repealed by a provision of Act March 4, 1909, c. 297, § 4, 35 
Stat. 905.

Appropriations are made in the annual sundry civil appropriation acts, under 
the heading “Testing machines, Watertown Arsenal,” for operating the 
machines and maintaining the establishment. The provision for the fiscal 
year 1914, by Act June 23, 1913, c. 8, § 1, 38 Stat. 29 was as follows:

“For the necessary professional and skilled labor, purchase of materials, 
tools, and appliances for operating the testing machines at the Watertown 
arsenal, for investigative test and tests of material in connection with the 
manufacturing work of the Ordnance Department, and for instruments and 
materials for operating the chemical laboratory in connection therewith, and 
for maintenance of the establishment, $15,000.”

---

**CHAPTER B**

**Board of Ordnance and Fortification**

<table>
<thead>
<tr>
<th>Sec.</th>
<th>Board of Ordnance and Fortification; composition; powers and duties.</th>
</tr>
</thead>
</table>
| 3111 | Additional civilian member of Board; salary and expenses; an-
      | nual report by Board. |

<table>
<thead>
<tr>
<th>Sec.</th>
<th>Persons who may not be members of Board.</th>
</tr>
</thead>
</table>
| 3114 | Purchases and investigations and tests by Board; limit of expen-
      | diture; guns and materials to be of American production. |

§ 3111. (Act Sept. 22, 1888, c. 1028, § 1.) Board of Ordnance and 
Fortification; Composition; powers and duties.

The appropriations hereinafter provided for shall be available until expended and shall be expended under the direct supervision of a board to consist of [the commanding General of the Army], an 
officer of Engineers, an officer of Ordnance, and an officer of Artillery, to be selected by the Secretary of War, to be called and known as the Board of Ordnance and Fortification; and said Board shall be under the direction of the Secretary of War and subject to his 
supervision and control in all respects, and shall have power to 
provide suitable regulations for the inspection of guns and materials 
at all stages of manufacture to the extent necessary to protect fully 
the interests of the United States, and generally to provide such

(1225)
§ 3111. ARMS, ARMORIES, AND ARSENALS (Tit. 17)

regulations concerning matters within said Board's operations as shall be necessary to carry out to the best advantage all duties committed to its charge: Provided, That subject to the foregoing provisions the expenditure shall be made by the several Bureaus of the War Department having jurisdiction of the same under existing law. (25 Stat. 489.)

The words of this section inclosed in brackets, "the commanding General of the Army," were superseded by a provision that the duties prescribed by statute for the commanding General of the Army as a member of the Board of Ordnance and Fortification should be performed by the Chief of Staff or other officer designated by the President, made by Act Feb. 14, 1903, c. 553, § 4, ante, § 1703.

This section was part of the fortifications appropriation act of September 22, 1888, c. 1028, cited above.

Sections 2-5 and parts of section 6 of the act made appropriations and other provisions limited in their operations by the time prescribed or the nature of the transaction involved, which are omitted, as temporary merely, and executed. Other provisions of section 6 of the act, which may be regarded as more permanent in their operation, are set forth post, § 3115.

Provisions for additional members of the Board, and relating to the qualifications of members, were made by Act Feb. 24, 1891, c. 283, § 1, Act Feb. 18, 1883, c. 136, § 1, and Act March 2, 1901, c. 803, post, §§ 3112-3114.

Instead of the provision in the proviso annexed to this section, that the expenditure should be made by the several bureaus of the War Department having jurisdiction of the same, the recent annual appropriations in the fortifications appropriation act for the Board provide that the expenditure shall be made by the several bureaus of the War Department heretofore having jurisdiction of the same, or by the Board itself, as the Secretary of War may direct. The provision for the fiscal year 1914 was by Act Feb. 13, 1913, c. 51, 37 Stat. 674.

§ 3112. (Act Feb. 24, 1891, c. 283, § 1.) Additional civilian member of Board; salary and expenses; annual report by Board. Board of Ordnance and Fortification: * * And one additional member shall be added to said Board of Ordnance and Fortification who shall be a civilian and not an ex-officer of the regular Army or Navy, and he shall be nominated by the President, and by and with the advice and consent of the Senate, appointed, and shall be paid a salary of five thousand dollars per annum and actual traveling expenses when traveling on duty: Provided, That the Board of Ordnance and Fortification shall make an annual report to Congress through the Secretary of War, on the first Monday in December in each year, showing the general operations of the Board and shall give a detailed statement of all contracts, allotments and expenditures made by the Board. (26 Stat. 769.)

This was a provision of the fortifications appropriation act of Feb. 24, 1891, c. 283, § 1, cited above.

§ 3113. (Act March 2, 1901, c. 803.) Additional members of Board to be selected from Artillery Corps. The Secretary of War is hereby authorized to appoint two additional members for the Board of Ordnance and Fortification, both of whom shall be selected from the Artillery Corps. (31 Stat. 910.)

This was a proviso annexed to the appropriation for manufacture, etc., of arms in the Army appropriation act for the fiscal year 1902, cited above.

(1226)
§ 3114. (Act Feb. 18, 1893, c. 136, § 1.) Persons who may not be members of Board.

Hereafter no person shall be a member of or serve on said Board who has been or is in any manner interested in any invention, device, or patent which, or anything similar to which, has been considered or may be considered by or come before said Board for test or adoption; or who is connected with or in the employ of any manufacturer who has or shall have contracts with the United States for any ordnance materials. (27 Stat. 458.)

This was a provision of the fortifications appropriation act of Feb. 18, 1893, c. 136, § 1, cited above.

§ 3115. (Act Sept. 22, 1888, c. 1028, § 6.) Purchases and investigations and tests by Board; limit of expenditure; guns and materials to be of American production.

The Board is authorized to make all needful and proper purchases, investigations, experiments, and tests, to ascertain with a view to their utilization by the Government, the most effective guns, including multicharge guns and the conversion of Parrott and other guns on hand, small arms, cartridges, projectiles, fuzes, explosives, torpedoes; armor-plates, and other implements and engines of war; and the Secretary of War is hereby authorized to purchase or cause to be manufactured, such guns, carriages, armor-plates, and other war materials and articles as may, in the judgment of said Board, be necessary in the proper discharge of the duty herein devolved upon them: Provided, That the amount expended and liabilities incurred in such purchases, investigations, experiments, and tests shall not exceed five hundred thousand dollars which sum is hereby appropriated. * *

Under the provisions of this section there shall not be expended or contract or contracts entered into involving the Government in an aggregate expenditure exceeding six million five hundred thousand dollars, nor an expenditure on the part of the Government in any one fiscal year in excess of two million dollars, and all guns and materials purchased under authority of this section shall be of American production and furnished by citizens of the United States. (25 Stat. 490.)

These provisions were part of section 6 of the fortifications appropriation Act of 1888, cited above.

Section 1 of the act, providing that the appropriations made by the act should be available until expended, and should be expended under direct supervision of the Board of Ordnance and Fortification established thereby, which is the board mentioned in this section, is set forth ante, § 3111.

Sections 2-5 of the act made appropriations and other provisions of a temporary nature merely, and are omitted.

The provisions of this section were also, to a great extent, temporary in their nature, and the first two paragraphs of the section, preceding those set forth here, having been limited by their terms as to time and particular transactions, are omitted as temporary and executed.

The provisions set forth here may be regarded as indicating the nature and extent of the duties and powers of the Board, although in part superseded (1227)
§ 3115  ARMS, ARMORIES, AND ARSENALS  (Tit. 17)

for subsequent years by provisions of similar appropriation acts repeated from year to year.

A further proviso, annexed to the first paragraph set forth here, relating to the test and purchase of two guns described, is omitted.

Instead of the provision of this section, authorizing the Secretary of War to purchase or cause to be manufactured such guns, etc., as may, in the judgment of the Board, be necessary, etc., subsequent similar appropriations are to enable the Board to purchase or cause to be manufactured, under authority of the Secretary of War, such guns, etc. The provision for the fiscal year 1914 is by Act Feb. 13, 1913, c. 51, 37 Stat. 674.

Instead of the further provision that all guns and materials purchased under authority of this section should be of American production, etc., subsequent fortifications appropriation acts provide, as to purchases for each year, as follows:

"That all material purchased under the provisions of this Act shall be of American manufacture, except in cases when, in the judgment of the Secretary of War, it is to the manifest interest of the United States to make purchases in limited quantities abroad, which material shall be admitted free of duty."

The provision for the fiscal year 1914 was by Act Feb. 13, 1913, c. 51, 37 Stat. 674.

An appropriation at the end of this section, for payment of the necessary expenses of the Board, including a per diem allowance to each member thereof when employed on duty away from his permanent station, of $2.50 a day, $5,000, or so much thereof as may be necessary, which is omitted here as applicable to the particular year only, is repeated in substance in the similar appropriations for subsequent years, as follows:

"For the payment of the necessary expenses of the board, including a per diem allowance to each officer detailed to serve thereon, when employed on permanent duty away from his station, of $2.50 a day."

The provision for the fiscal year 1914 was by Act Feb. 13, 1913, c. 51, 37 Stat. 674.

The recent appropriations for the Board are accompanied by a proviso, relating to the right to use inventions involved in the construction of guns, etc., which is repeated in the several acts from year to year, and, being a proviso to the appropriation for the particular year, may be regarded as applicable to the expenditure of that appropriation only. Said proviso, as annexed to the appropriation for the fiscal year 1914, by Act Feb. 13, 1913, c. 51, 37 Stat. 674, was as follows:

"Provided, That before any money shall be expended in the construction or test of any gun, gun carriage, ammunition, or implements under the supervision of the said board, the board shall be satisfied, after due inquiry, that the Government of the United States has a lawful right to use the inventions involved in the construction of such gun, gun carriage, ammunition, or implements, or that the construction or test is made at the request of a person either having such lawful right or authorized to convey the same to the Government."

(1228)
Title XVIII
Diplomatic and Consular Officers

Chapter One
Diplomatic Officers

§ 3116. (R. S. § 1674.) Definition of official designations employed in this Title.

The official designations employed throughout this Title shall be deemed to have the following meanings, respectively:

First. "Consul-general," "consul," [and "commercial agent,"] shall be deemed to denote full, principal, and permanent consular officers, as distinguished from subordinates and substitutes.

Second. "Deputy consul" and "consular agent" shall be deemed to denote consular officers subordinate to such principals, exercising the powers and performing the duties within the limits of their consulates [or commercial agencies] respectively, the former at the
same ports or places, and the latter at ports or places different from those at which such principals are located respectively.

Third. "Vice-consuls" [and "vice-commercial agents"] shall be deemed to denote consular officers, who shall be substituted, temporarily, to fill the places of consuls-general, consuls, [or commercial agents,] when they shall be temporarily absent or relieved from duty.

Fourth. "Consular officer" shall be deemed to include consuls-general, consuls, [commercial agents,] deputy consuls, vice-consuls, [vice-commercial agents,] and consular agents, and none others.

Fifth. "Diplomatic officer" shall be deemed to include ambassadors, envoys extraordinary, ministers plenipotentiary, ministers resident, commissioners, chargés d'affaires, agents, and secretaries of legation, and none others.


The words of this section, "and commercial agent," "or commercial agencies," "and vice-commercial agents," "or commercial agents," "commercial agents," and "vice-commercial agents," included in brackets, were superseded by the abolition of the grade of commercial agent by Act April 6, 1906, c. 1308, § 8, post, § 3140.

The words "minister" and "consul," as used in Title XLVII, "Foreign Relations," were defined by R. S. § 4130, post, § 7676.

§ 3117. (R. S. § 1675.) Salaries.

Ambassadors and envoys extraordinary and ministers plenipotentiary shall be entitled to compensation at the rates following, per annum, namely:

Those to France, Germany, Great Britain, and Russia, each, seventeen thousand five hundred dollars.

Those to Austria, Brazil, China, Italy, Japan, Mexico, and Spain, each, twelve thousand dollars.

Those to all other countries, unless where a different compensation is prescribed by law, each, ten thousand dollars.

And, unless when otherwise provided by law, ministers resident and commissioners shall be entitled to compensation at the rate of seventy-five per centum, chargés d'affaires at rate of fifty per centum, and secretaries of legation at the rate fifteen per centum, of the amounts allowed to ambassadors, envoys extraordinary, and ministers plenipotentiary to the said countries respectively; except that the secretary of legation to Japan shall be entitled to compensation at the rate of twenty-five hundred dollars per annum.

The second secretaries of the legations to France, Germany, and Great Britain shall be entitled to compensation at the rate of two thousand dollars each per annum.


This section, as enacted in the Revised Statutes, was as follows:

"Ambassadors, envoys extraordinary, and ministers plenipotentiary, ministers resident, agents, and secretaries, and second secretaries of legation, shall be entitled to salaries as hereinafter provided.

"Envoys extraordinary and ministers plenipotentiary to France, Germany,"
Ch. 1) DIPLOMATIC OFFICERS § 3117

Great Britain, and Russia, seventeen thousand five hundred dollars each; to Austria, Brazil, China, Italy, Japan, Mexico, and Spain, twelve thousand dollars each; to Chili and Peru, ten thousand dollars each.

"Minister-resident accredited to Guatemala, Costa Rica, Honduras, Salvador, and Nicaragua, ten thousand dollars.

"Minister-resident at Uruguay, ten thousand dollars.

"Ministers-resident at Portugal, Switzerland, Greece, Belgium, Netherlands, Denmark, Sweden and Norway, Turkey, Ecuador, Colombia, Bolivia, Venezuela, Hawaiian Islands, and the Argentine Republic, seven thousand five hundred dollars each.

"Minister-resident and consul-general at Hayti, seven thousand five hundred dollars.

"Minister-resident and consul-general at Liberia, four thousand dollars.

"Agent and consul-general at Alexandria, three thousand five hundred dollars.


"Secretary of legation to Japan, two thousand five hundred dollars.

"Secretaries of legations to Austria, Brazil, Italy, Mexico, and Spain, one thousand eight hundred dollars each.

"Second secretaries of legations to France, Great Britain, and Germany, two thousand dollars each."

It was amended to read as set forth here by Act March 3, 1875, c. 153, cited above.

Act Aug. 5, 1882, c. 306, 22 Stat. 301, purported to amend this section by inserting an additional clause after the words, "Libera, four thousand dollars," which words, although contained in the original section, were not in the section as amended by Act March 3, 1875, c. 153, and set forth here. The amendatory act is set forth post, § 3118.

Subsequent diplomatic and consular appropriation acts provide salaries for the various diplomatic officers, differing, in some instances, from those fixed by this section. The appropriation act for the fiscal year 1879, Act June 4, 1878, c. 155, 20 Stat. 98, enacted that the salaries provided therein for the officers named should be in full for their annual salaries from and after the first day of July, 1878, and that all laws and parts of laws in conflict with its provisions were repealed. The same proviso was repeated in the similar act of Jan. 27, 1879, c. 28, 20 Stat. 267, as to the annual salaries after July 1, 1879; but it does not appear again in any subsequent appropriation act. Act July 1, 1886, c. 600, 24 Stat. 108, however, provided that the amounts appropriated should be "in full compensation for the diplomatic and consular service of the fiscal year"; and this proviso was repeated in subsequent similar acts. The provisions of the various diplomatic and consular appropriation acts, being only for the next ensuing year, cannot be deemed permanent in their nature. Where, however, they make changes in the salaries of officers, they have been held to supersede the provisions of the previous act with which they are in conflict. See 109 U. S. 143. See, also, 10 Wall. 62, 118 U. S. 380, 123 U. S. 182, 133 U. S. 180, 273. In the notes to this section, the various provisions of the diplomatic and consular appropriation act for the fiscal year 1914, Act Feb. 28, 1913, c. 86, 37 Stat. 683, are given.

"Salaries of Ambassadors and Ministers.

"Ambassadors extraordinary and plenipotentiary to Austria-Hungary, Brazil, France, Germany, Great Britain, Italy, Japan, Mexico, Russia, and Turkey, at $17,500 each, $175,000;

"Envoys extraordinary and ministers plenipotentiary to the Argentine Republic, Belgium, Chili, China, Cuba, the Netherlands and Luxembourg, and Spain, at $12,000 each, $84,000;

"Envoys extraordinary and ministers plenipotentiary to Bolivia, Colombia, Costa Rica, Denmark, Ecuador, Greece and Montenegro, Guatemala, Haiti, Honduras, Morocco, Nicaragua, Norway, Panama, Paraguay and Uruguay, (1231)"
§ 3117 DIPLOMATIC OFFICERS

Persia, Peru, Portugal, Salvador, Siam, Sweden, Switzerland, and Venezuela, at $10,000 each, $220,000;
"Envoy extraordinary and minister plenipotentiary to Roumania, Servia, and Bulgaria, $10,000;
"Envoy extraordinary and minister plenipotentiary to the Dominican Republic, $10,000;
"Minister resident and consul-general to Liberia, $5,000;
"Agent and consul-general at Cairo, $6,500;
"Provided, That no salary herein appropriated shall be paid to any official receiving any other salary from the United States Government;
"Chargé d’affaires ad interim, $50,000;
"Total, $500,500.

"Salaries of Secretaries of Embassies and Legations.
"Secretaries of embassy to Austria-Hungary, Brazil, Great Britain, France, Germany, Italy, Japan, Mexico, Russia, and Turkey, at $3,000 each, $30,000;
"Japanese secretary of embassy to Japan, $3,600;
"Turkish secretary of embassy to Turkey, $3,600;
"Chinese secretary, legation to China, $3,600;
"Secretaries of legation to the Argentine Republic, Belgium, Chili, China, Cuba, the Netherlands and Luxembourg, and Spain, at $2,025 each, $15,375;
"Secretaries of legation to Bolivia, Colombia, Costa Rica, Denmark, Ecuador, Guatemala, Honduras, Liberia, Morocco, Nicaragua, Norway, Panama, Peru, Portugal, Sweden, Switzerland, and Venezuela, at $2,000 each, $34,000;
"Secretary of legation to Dominican Republic and consul-general at Santo Domingo, $2,000;
"Secretary of legation to Salvador and consul-general to San Salvador, $2,000;
"Secretary of legation to Siam and consul-general at Bangkok, $2,000;
"Secretary of legation to Greece and Montenegro, $2,000;
"Secretary of legation to Paraguay and Uruguay, $2,000;
"Secretary of legation and consul-general to Roumania, Servia, and Bulgaria, $2,000;
"Secretary of legation to Persia consul-general at Teheran, who shall be an American student of the language of that country, $2,000;
"Second secretaries of embassy to Austria-Hungary, Brazil, Great Britain, France, Germany, Italy, Japan, Mexico, and Russia, at $2,000 each, $18,000;
"Second secretaries of legation to China and Cuba, at $1,800 each, $3,600;
"Second secretary of embassy to Turkey, who shall be an American student of the language of that court and country, $2,000;
"Third secretaries of embassy to Great Britain, France, Mexico, Germany, and Russia, at $1,200 each, $6,000;
"Third secretary of embassy to Japan, who shall be an American student of the Japanese language, $1,200;
"Third secretary of embassy to Turkey, who shall be an American student of the Turkish language, $1,200;
"Total, $123,175.

"Salaries of Interpreters to Embassies and Legations.
"Assistant Chinese secretary to the legation to China, to be appointed from the corps of student interpreters, $2,000;
"Assistant Japanese secretary of embassy to Japan, to be appointed from the corps of student interpreters, $2,000;
"Assistant Turkish secretary to the embassy to Turkey, to be appointed from the corps of student interpreters, $2,000;
"Interpreter to legation and consulate-general to Persia, $1,000;
"Interpreter to legation and consulate-general to Bangkok, Siam, $1,500;
"For ten student interpreters at the legation to China, who shall be citizens of the United States, and whose duty it shall be to study the Chinese language with a view to supplying interpreters to the legation and consulates in China, at $1,000 each, $10,000: Provided, That said student interpreters shall be chosen in such manner as will make the selections nonpartisan: And provided further, That upon receiving such appointment each student interpreter (1232)
shall sign an agreement to continue in the service as interpreter to the legation and consulates in China so long as his said services may be required within a period of five years:

"For the payment of the cost of tuition of student interpreters at the legation to China, at the rate of $180 per annum each, $1,800;

"For six student interpreters at the embassy to Japan, who shall be citizens of the United States, and whose duty it shall be to study the Japanese language with a view to supplying interpreters to the embassy and consulates in Japan, at $1,000 each, $6,000: Provided, That said student interpreters shall be chosen in such manner as will make the selections nonpartisan: And provided further, That upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as interpreter to the embassy and consulates in Japan so long as his said services may be required within a period of five years;

"For the payment of the cost of tuition of student interpreters at the embassy to Japan, at the rate of $125 per annum each, $750;

"For ten student interpreters at the embassy to Turkey, who shall be citizens of the United States, and whose duty it shall be to study the language of Turkey and any other language that may be necessary to qualify them for service as interpreters to the embassy and consulates in Turkey, at $1,000 each, $10,000: Provided, That said student interpreters shall be chosen in such manner as will make the selections nonpartisan: And provided further, That upon receiving such appointment each student interpreter shall sign an agreement to continue in the service as interpreter to the embassy and consulates in Turkey so long as his said services may be required within a period of five years;

"For the payment of the cost of tuition of student interpreters at the embassy to Turkey, at the rate of $125 per annum each, $1,250; but no person drawing the salary of interpreter as above provided shall be allowed any part of the salary appropriated for any secretary of legation or other officer.

"Total, $38,000."


The sums thus appropriated were, as in previous acts, "severally appropriated, in full compensation for the diplomatic and consular service for the fiscal year," and these provisions cannot be deemed permanent.

A provision for the employment of clerks at embassies and legations, more permanent in its nature so far as it refers to such clerks "whenever hereafter appointed," contained in the diplomatic and consular appropriation act for the fiscal year 1907, Act June 16, 1906, c. 3337, 34 Stat. 288, and repeated in the similar acts for the following years, cited above, is set forth post, § 8133.

§ 3118. (Act Aug. 5, 1882, c. 399.) Chargé d'affaires and consul-general at Teheran.

That section sixteen hundred and seventy-five of the Revised Statutes of the United States be, and the same is hereby, amended by inserting after the words "Liberia, four thousand dollars," the words "charge d'affaires and consul-general at Teheran, Persia, five thousand dollars," and the sum necessary therefor is hereby appropriated out of any money in the Treasury not otherwise appropriated. (22 Stat. 301.)

This was an act entitled "An act to establish diplomatic relations with Persia."

The words "Liberia, four thousand dollars," were omitted from R. S. § 1675 by the amendatory Act of March 3, 1875, c. 153, ante, § 3117.

The diplomat representative of the United States to Persia was made an envoy extraordinary and minister plenipotentiary, and his salary was $10,000, by Act Feb. 28, 1913, c. 86, 37 Stat. 688.

See note to R. S. § 1675, ante, § 3117.

Comp.St.'13—78 (1233)
§ 3119. (R. S. § 1676, as amended, Act March 3, 1875, c. 153.)
Agent and consul-general at Cairo.

The agent and consul-general at Cairo shall be entitled to compensation at the rate of three thousand five hundred dollars per annum.


This section, as enacted in the Revised Statutes, provided that a commissioner appointed to any of the countries mentioned in R. S. § 1675, ante, § 3117, should be entitled to receive seventy-five per cent. of the salary therein provided for envoy-extraordinary and minister plenipotentiary or the minister-resident to such country, and that a chargé d'affaires so appointed should be entitled to receive fifty per cent. of such salary. It was amended to read as set forth here by Act March 3, 1875, c. 153, cited above. R. S. § 1675, ante, § 3117, as amended by the same act, contained a provision relating to the salary of commissioners and chargé d'affaires, which would have superseded this section, had it not been obliterated by the amendment.

Previous to its amendment by Act March 3, 1875, c. 153, R. S. § 1675, ante, § 3117, provided that the agent and consul-general at Alexandria should receive a salary of $3,500. The official designation was changed to "agent and consul-general at Cairo" by Res. Jan. 8, 1874, No. 1, set forth post, § 3120.

The salary of the agent and consul-general at Cairo was fixed at $6,500 by Act Feb. 25, 1913, c. 86, 37 Stat. 688.

See also, note to R. S. § 1675, ante, § 3117.

§ 3120. (Res. Jan. 8, 1874, No. 1.) Title of agent and consul-general at Cairo.

The name and title of the agent and consul-general of the United States at Alexandria shall, from the passage of this joint resolution, be "agent and consul-general of the United States at Cairo." (18 Stat. 285.)

See notes to R. S. §§ 1675, 1676, ante, §§ 8116, 8117.

§ 3121. (Act March 2, 1909, c. 235.) New ambassadorship to be created only by Congress.

Hereafter no new ambassadorship shall be created unless the same shall be provided for by Act of Congress. (35 Stat. 672.)

This was a provision of the diplomatic and consular appropriation act for the fiscal year 1910, cited above. Another provision of this act repealed a provision authorizing the President to change the designation of diplomatic representatives made by Act March 1, 1893, c. 182, § 1, 27 Stat. 497.

§ 3122. (Act Sept. 4, 1913, c. 10.) Ambassador to Spain; salary.

The president is hereby authorized to appoint, as the representative of the United States, an ambassador to Spain, who shall receive as his compensation the sum of $17,500 per annum. (38 Stat. 110.)

This was an act entitled "An act authorizing the appointment of an ambassador to Spain."

§ 3123. (Act Dec. 6, 1913, c. 2, § 1.) Envoy extraordinary and minister plenipotentiary to Paraguay; salary.

The president is hereby authorized to appoint, as the representative of the United States, an envoy extraordinary and minister plenipotentiary to Paraguay, who shall receive as his compensation the sum of $10,000 per annum. (38 Stat. ———.)

This section and the section next following were an act entitled "An Act authorizing the appointment of envoys extraordinary and ministers plenipotentiary to each Paraguay and Uruguay."

(1234)
§ 3124. (Act Dec. 6, 1913, c. 2, § 2.) Envoy extraordinary and minister plenipotentiary to Uruguay; salary.

The President is hereby further authorized to appoint, as the representative of the United States, an envoy extraordinary and minister plenipotentiary to Uruguay, who shall receive as his compensation the sum of $10,000 per annum. (38 Stat. 156.)

§ 3125. (R. S. § 1677.) Secretary of legation to Turkey.

The consul-general at Constantinople shall be the secretary of the legation to Turkey, but shall receive compensation only as consul-general.

Act Feb. 22, 1873, c. 184, § 1, 17 Stat. 472.

The provision of this section, that the consul-general at Constantinople should be the secretary of the legation to Turkey, without compensation therefor was superseded by annual appropriations for salary of such secretary as for a distinct office. The appropriations for the fiscal year 1914, were for a secretary of embassy, $3,000, a second secretary of embassy, $2,000, and a third secretary of embassy, $1,200 by provisions of Act Feb. 28, 1913, c. 86, set forth ante, in note to R. S. § 1675, ante, § 3117.

§ 3126. (R. S. § 1678.) Interpreter of legation to Turkey.

The interpreter to the legation to Turkey shall be entitled to receive three thousand dollars, and such salary may be paid to an interpreter, notwithstanding he may not be a citizen of the United States.

Act Feb. 22, 1873, c. 184, § 1, 17 Stat. 472.

A Turkish secretary of embassy to Turkey, a second secretary and a third secretary of the embassy, who shall be American students of the language at that court, at $3,000, $2,000, and $1,200, respectively, for the fiscal year 1914, were provided for by Act Feb. 28, 1913, c. 86, set forth ante, in note to R. S. § 1675, ante, § 3117. Provisions for an assistant Turkish secretary, at $2,000, and for student interpreters, at the embassy, were also made by that act.

§ 3127. (R. S. § 1679.) Interpreter of legation to Japan.

The interpreter to the legation to Japan shall receive a salary of two thousand five hundred dollars.

Act Feb. 22, 1873, c. 184, § 1, 17 Stat. 472.

A Japanese secretary and an assistant Japanese secretary of embassy to Japan, at $3,600 and $2,000, respectively, for the fiscal year 1914, were provided for by Act Feb. 28, 1913, c. 86, set forth in notes to R. S. § 1675, ante, § 3117. Further appropriations and provisions for other interpreters to embassies and legations, and provisions for student interpreters at the legation to China and the embassies to Japan and Turkey, were also made by said act.

 Said act further provided that no person drawing the salary of interpreter as provided shall be allowed any part of the salary appropriated for any secretary of legation or other officer. A similar provision was made in each annual diplomatic and consular appropriation act since 1884.

(R. S. § 1680. Repealed.)

This section provided that the compensation of the secretary of the legation to China, if acting as interpreter, should be at the rate of $5,000 a year, and, if not, at the rate of $3,000 a year, and authorized the President to appoint an interpreter, when the secretary of the legation could not act as such, said interpreter to have a salary of $5,000 a year. It was repealed by Act Feb. 25, 1886, c. 150, 23 Stat. 322.

A Chinese secretary to the legation to China, with a salary of $3,600, was provided for by Act Feb. 28, 1913, c. 86, 37 Stat. 688.

See note to R. S. § 1675, ante, § 3117.

(1235)
§ 3128

(Diplomatic Officers) (Tit. 18)

(R. S. § 1681. Repealed.)

This section provided that the minister at Uruguay should also be accredited to Paraguay. It was amended by Act March 3, 1875, c. 153, 18 Stat. 483, so as to read, “The minister-resident to Uruguay, when also accredited to Paraguay, shall be entitled to compensation at the rate of ten thousand dollars per annum.” It was repealed by Act Feb. 25, 1886, c. 150, 23 Stat. 322.

The salary of the envoy-extraordinary and minister-plenipotentiary to Paraguay and Uruguay was $10,000, by Act Feb. 28, 1913, c. 86, 37 Stat. 688.

See note to R. S. § 1675, ante, § 3117.

§ 3128. (R. S. § 1682, as amended, Act March 3, 1875, c. 153.)

Minister to Guatemala, Costa Rica, Honduras, Salvador, and Nicaragua.

There shall be but one minister resident accredited to Guatemala, Costa Rica, Honduras, Salvador, and Nicaragua; and the President may select the place of residence for the minister in any one of those States. And he shall receive compensation at the rate of ten thousand dollars per annum.


This section as enacted in the Revised Statutes, did not contain the words, “And he shall receive compensation at the rate of ten thousand dollars per annum,” at the end of the section set forth here. Those words were added by Act March 3, 1875, c. 153, cited above.

The salary of the minister-resident accredited to Guatemala, Costa Rica, Honduras, Salvador, and Nicaragua was fixed at $10,000 by R. S. § 1675, prior to its amendment by Act March 3, 1875, c. 153, ante, § 3117. As amended by that act, the provision relating to said officer was omitted.

Envoy extraordinary and ministers plenipotentiary to Costa Rica, Guatemala, Honduras, Nicaragua, and Salvador, at $10,000 each, for the fiscal year ending 1914, were provided for by Act Feb. 23, 1913, c. 86, set forth in note to R. S. § 1675, ante, § 3117.

§ 3129. (R. S. § 1683.) Representatives to Hayti, Liberia, etc.

There shall be a diplomatic representative of the United States to each of the republics of Hayti and Liberia, who shall be appointed by the President, by and with the advice and consent of the Senate; and shall be accredited as minister resident and consul-general. The representative at Hayti shall be entitled to a salary of seven thousand five hundred dollars a year; and the representative at Liberia to a salary not exceeding four thousand dollars a year.


The salary of the minister-resident and consul-general to Hayti was fixed at $7,500, and the salary of the minister-resident and consul-general to Liberia was fixed at $4,000, by R. S. § 1675, ante, § 3117; prior to its amendment by Act March 3, 1875, c. 153. As amended by that act, said section made no mention of said officers.

The representative of the United States at Hayti was entitled an envoy-extraordinary and minister plenipotentiary, and he was accredited as chargé d'affaires to San Domingo, by Act March 2, 1901, c. 802, 31 Stat. 834. But so much of the former provision for an envoy extraordinary and minister plenipotentiary to Haiti as required him to be accredited also as chargé d'affaires to Santo Domingo was repealed by Act April 27, 1904, c. 1630, 33 Stat. 394, and a minister resident and consul-general to the Dominican Republic was also provided for by that act and subsequent diplomatic and consular appropriation acts. Envoy extraordinary and ministers plenipotentiary to Haiti and the Dominican Republic, at $10,000 each, were provided for the

(1236)
fiscal year 1914, by Act Feb. 28, 1913, c. 86, set forth in note to R. S. § 1875, ante, § 3117.
A minister resident and consul-general to Liberia, at $5,000, was provided for also by said Act Feb. 28, 1913, c. 86.
See note to R. S. 1875, ante, § 3117.

§ 3130. (R. S. § 1684.) Condition of compensation of chargé d'affaires or secretary.
To entitle any chargé d'affaires, or secretary of any legation or embassy to any foreign country, or secretary of any minister plenipotentiary, to compensation, they shall respectively be appointed by the President, by and with the advice and consent of the Senate; but in the recess of the Senate the President is authorized to make such appointments, which shall be submitted to the Senate at the next session thereafter, for their advice and consent; and no compensation shall be allowed to any chargé d'affaires, or any of the secretaries hereinbefore described, who shall not be so appointed.

Act May 1, 1810, c. 44, § 2, 2 Stat. 608.

§ 3131. (R. S. § 1685, as amended, Act March 2, 1909, c. 235.)
Compensation of secretary of embassy or legation acting as chargé d'affaires.
For such time as any secretary of embassy or legation shall be lawfully authorized to act as chargé d'affaires ad interim at the post to which he shall have been appointed, he shall be entitled to receive, in addition to his salary as secretary of embassy or legation, compensation equal to the difference between such salary and fifty per centum of the salary provided by law for the ambassador or minister at such post.

This section, as enacted in the Revised Statutes, was as follows:
"For such time as any secretary of legation shall be lawfully authorized to act as chargé d'affaires ad interim at the post to which he shall have been appointed, he shall be entitled to receive compensation at the rate allowed by law for a chargé d'affaires at such post; but he shall not be entitled to receive, for such time, the compensation allowed for his services as secretary of legation."

It was amended to read as set forth here by a provision of the diplomatic and consular appropriation act for the fiscal year 1910, last cited above.
A provision that "hereafter no secretary or second secretary of any legation shall be entitled to or receive any compensation over and above his salary as such secretary for acting as chargé d'affaires during the temporary or other absence without leave of the minister to whose duties he may succeed," made by the diplomatic and consular appropriation act for the fiscal year 1886, Act Feb. 25, 1886, c. 150, 23 Stat. 522, was superseded by this amendment.

§ 3132. (R. S. § 1686.) Compensation of persons filling two offices.
When to any diplomatic office held by any person there is superadded another, such person shall be allowed additional compensation for his services, in such superadded office, at the rate of fifty per centum of the amount allowed by law for such superadded office, and for such time as shall be actually and necessarily occupied in making the transit between the two posts of duty, at the commencement and termination of the period of such superadded office, and no longer;
§ 3132  DIPLOMATIC OFFICERS  (Tit. 18)

and such superadded office shall be deemed to continue during the
time to which it is limited by the terms thereof.


§ 3133. (Act June 16, 1906, c. 3337.) Clerks at embassies and le-
gations to be citizens of United States.

For the employment of necessary clerks at the embassies and lega-
tions, who, whenever hereafter appointed, shall be citizens of the
United States. (34 Stat. 288.)

This was a provision of the diplomatic and consular appropriation act for
the fiscal year 1907, cited above. It was repeated in the same language in the
similar acts for subsequent years. The provision for the fiscal year 1914
was by Act Feb. 28, 1913, c. 88, 37 Stat. 588.

R. S. § 1744, post, § 3203, prohibited the payment of salaries to officers men-
tioned in R. S. § 1675, ante, § 3117, or to assistant secretaries of legation in
cases where the persons holding such offices are not citizens of the United
States.

§ 3134. (R. S. § 1684.) Fees at legations to be accounted for.

All fees collected at any of the legations shall be accounted for to
the Secretary of the Treasury, and held subject to his draft, or other
directions.


A similar provision applicable to consular officers was made by R. S. § 1747,
post, § 3207.

§ 3135. (Act June 11, 1874, c. 275, § 1.) Annual allowance to sec-
retaries and messenger of legation at Paris from fees collected.

The Secretary of State is authorized to allow and pay to the
secretary of legation and to the second secretary of legation and
to the messenger of the legation in Paris, from the moneys collected
at the legation for the transmission of consular invoices, an amount
not to exceed in the aggregate six hundred dollars in any one year,
to be divided and distributed as the Secretary of State may direct,
provided that the surplus receipts are sufficient for that purpose.
(18 Stat. 67.)

This was a provision of the diplomatic and consular appropriation act for
the fiscal year 1875, cited above.

A secretary of legation to France and a second secretary of embassy to
France, at $2,000 each, for the fiscal year 1914, were provided for by Act
Feb. 28, 1913, c. 88, set forth in note to R. S. § 1675, ante, § 3117.

§ 3136. (R. S. § 1688.) Uniforms and official costumes.

No person in the diplomatic service of the United States shall
wear any uniform or official costume not previously authorized by
Congress.

Res. Mch. 27, 1807, No. 15, 15 Stat. 23.
(1218)
CHAPTER TWO
Consular Officers

Sec. 3137. Application of general provisions in this Title.
3138. Consular system reorganized.
3139. Consuls-general and consuls; classification; salaries.
3140. Vice-consular officers; consular agents; grade of commercial agent abolished.
3141. Inspectors of consulates; designation as consuls-general at large; appointment; duties; powers; bonds; misconduct and neglect of duty.
3142. Consular assistants to be citizens.
3143. Consuls, etc., not to hold office at different consulates.
3144. Consuls and consuls-general not to receive salary of secretary of legation or interpreter.
3145. Interpreters at consulates in China and Japan.
3146. Salary of interpreter at Bangkok.
3147. Extent of consulates, and appointment of vice-consular officers.
3148. Expenses of vice-consulates and consular agencies.
3149. Bonds of consular officers to be furnished and deposited with Secretary of Treasury; suits on bonds.
3150. Bonds of vice-consuls; deposit with Secretary of Treasury; suits on bonds.
3151. Consular officers not to transact business.
3152. Extension of prohibition upon transacting business.
3153. Penalty for illegally transacting business.
3154. Appointment of consular assistants.
3155. Salaries of consular assistants.
3156. Consular clerks to be styled consular assistants; number increased.
3157. Consular assistants; number increased.
3158. Examination and removal of consular assistants.
3159. Actual expenses may be allowed to consuls-general, etc., who are not allowed to trade.
3160. Protests.
§ 3137. DIPLOMATIC OFFICERS

3186. Consular officers to account for fees; compensation to be by salary only; consular agents to be paid one-half of fees received; additional compensation to vice-consular officers.

3187. Fees for consular certification of invoices to be prescribed by President.

3188. Stamps for amount of fee for consular or notarial act to be affixed to document and canceled; effect of failure to affix and cancel stamp.

§ 3137. (R. S. § 1689.) Application of general provisions in this Title.

The various provisions of this Title which are expressed in terms of general application to any particular classes of consular officers, shall be deemed to apply as well to all other classes of such officers, so far as may be consistent with the subject-matter of the same, and with the treaties of the United States.

Act Aug. 18, 1856, c. 127, § 31, 11 Stat. 64.

Provisions relating to consular courts in foreign countries are set forth under Title XLVII, "Foreign Relations."

(R. S. § 1690. Superseded.)

This section, as enacted in the Revised Statutes, incorporated provisions of the following acts: Act Aug. 18, 1856, c. 127, § 3, 11 Stat. 52; Act Feb. 26, 1861, c. 58, § 1, 12 Stat. 171; Act Feb. 4, 1862, c. 17, § 1, 12 Stat. 335; Act June 20, 1864, c. 136, § 1, 13 Stat. 138, 139; Act July 25, 1866, c. 233, § 1, 14 Stat. 225; Act Feb. 25, 1877, c. 50, 14 Stat. 412; Act March 30, 1885, c. 38, § 1, 15 Stat. 57; Act March 3, 1893, c. 125, § 7, 15 Stat. 322; Act May 17, 1872, c. 169, 17 Stat. 120; Act June 8, 1872, c. 332, 17 Stat. 232; Act Feb. 22, 1873, c. 184, § 1, 17 Stat. 471—all of which were acts making appropriations for the diplomatic and consular service. The first paragraph of the section was followed in the Revised Statutes by schedules enumerating the various consular offices, and stating the salary attached to each. These schedules were designated "Schedule B" and "Schedule C." Schedule B was subdivided into three classes, as follows: I, Consul-general; II, Consul; III, Commercial Agents. Schedule C was subdivided into two classes, as follows: I, Consul; II, Commercial Agents.

Act June 11, 1874, c. 275, § 1, 18 Stat. 67, after appropriating various sums for the salaries, etc., of the diplomatic officers, contained the following clause: "That Schedules B and C in section three of the act entitled 'An act to regulate the diplomatic and consular systems of the United States,' approved August eighteen, eighteen hundred and fifty-six, shall from and after the first day of July next, read as follows." The act referred to was one of the diplomatic and consular appropriation acts incorporated into R. S. § 1690. None of the subsequent similar appropriation acts contained such a clause. Act June 11, 1874, c. 275, though passed before the enactment of the Revised Statutes, had effect as a subsequent statute, by virtue of R. S. § 8001; and Schedules B and C therein, following the clause quoted above, had effect as an amendment of Schedules B and C, contained in R. S. § 1690.

This section, as so amended, and subsequent provisions of Act March 3, 1875, c. 157, 18 Stat. 498, Act Feb. 18, 1876, c. 12, 18 Stat. 4, and Act Feb. 11, 1878, c. 14, 20 Stat. 24, relating to appointment and salaries of consular officers, were superseded by the provisions of the Consular Reorganization Act of April 5, 1906, c. 186, set forth, as amended by Act May 11, 1908, c. 161, and Act Feb. 3, 1909, c. 60, post, §§ 3158-3142, 3151, 3152, 3155-3183.

(1240)
§ 3138. (Act April 5, 1906, c. 1366, § 1.) Consular system reorganized.

That the consular system of the United States be reorganized in the manner hereinafter provided in this Act. (34 Stat. 99.)

This section and the four sections next following were part of the Consular Reorganization Act of 1906, entitled "An act to provide for the reorganization of the Consular Service of the United States."

Section 2 of the act, next following, was amended by the Consular Reorganization Act of May 11, 1908, c. 161, 35 Stat. 101, and by Act Feb. 3, 1909, c. 60, 35 Stat. 593.

Section 6 of the act amended R. S. §§ 1699, 1700, and is incorporated into those sections as set forth post, §§ 3151, 3152.

Sections 7–10 of the act are set forth post, §§ 3155–3158.

Before this act, appointments and salaries of consular officers were regulated by R. S. § 1690, and subsequent provisions, and by the provisions made for each fiscal year by the diplomatic and consular appropriation acts. All such previous provisions relating to the subject were superseded by this act.

§ 3139. (Act April 5, 1906, c. 1366, § 2, as amended, Act May 11, 1908, c. 161, and Act Feb. 3, 1909, c. 60.) Consuls-general and consuls; classification; salaries.

The consuls-general and the consuls of the United States shall hereafter be classified and graded as hereinafter specified, with the salaries of each class herein affixed thereto.

CONSULS-GENERAL

Class two, eight thousand dollars: Berlin, Habana, Hongkong, Hamburg, Rio de Janeiro, Shanghai.
Class three, six thousand dollars: Calcutta, Cape Town, Constantineople, Mexico City, Montreal, Ottawa, Vienna, Yokohama.
Class four, five thousand five hundred dollars: Antwerp, Barcelona, Brussels, Canton, Frankfort, Marseilles, Moscow, Panama, Rotterdam, Seoul, Sydney (Australia), Tientsin.
Class five, four thousand five hundred dollars: Auckland, Beirut, Boma, Buenos Ayres, Callao, Coburg, Dresden, Genoa, Guayaquil, Halifax, Hankau, Mukden, Munich, Singapore, Vancouver, Winnipeg, Zurich.
Class six, three thousand five hundred dollars: Adis Ababa, Bogota, Budapest, Guatemala, Lisbon, Monterey, San Salvador, Smyrna, Stockholm, Tangier.
Class seven, three thousand dollars: Athens, Christiania, Copenhagen.

CONSULS

Class one, eight thousand dollars: Liverpool.
Class two, six thousand dollars: Manchester.
Class three, five thousand dollars: Amsterdam, Bremen, Dawson, Belfast, Havre, Johannesburg, Kobe, Lourenço Marquez, Lyon.
Class four, four thousand five hundred dollars: Amoy, Birmingham, Chefoo, Cienfuegos, Fuchau, Glasgow, Kingston (Jamaica), Newchwang, Nottingham, Saint Gall, Santiago, Southampton, Vera Cruz, Valparaiso.
Class five, four thousand dollars: Bahia, Bombay, Bordeaux, Colon,

(1241)
§ 3189 DIPLOMATIC OFFICERS (Tit. 18)


Class seven, three thousand dollars: Aix la Chapelle, Aleppo, Barbados, Batavia, Belgrade, Burslem, Calais, Carlshad, Catania, Colombo, Corinto, Dunfermline, Florence, Frontera, Ghent, Hamilton (Ontario), Hanover, Harput, Huddersfield, Iquitos, Iquique, Jerusalem, Karachi, Kehl, La Guaira, Lehigh, Liege, Madras, Malaga, Managua, Melbourne, Nantes, Nassau, Newcastle (New South Wales), Newcastle (England), Port Antonio, Punta Arenas, Port au Prince, Riga, Sandakan, Progreso, Seville, Saint John (New Brunswick), Saint Michaels, Saint Thomas (West Indies), San Jose, Sheffield, Swansea, Sydney (Nova Scotia), Tabriz, Tampico, Tamsui, Trieste, Trinidad.


Class nine, two thousand dollars: Aguascalientes, Asuncion, Bagdad, Bristol, Campbellton, Cape Gracias, Cape Haitien, Cartagena, Ceiba, Charlottetown, Cornwall, Durango, Ensenada, Fernie, Fort Erie, Gorée-Dakar, Grenoble, Guadeloupe, Hermosillo, Hobart, La Paz, Manzanillo, Maskat, Moncton, Niagara Falls, Patras, Port Louis, Puerto Cabello, Puerto Plata, Rouen, Saigon, Saint Johns (Quebec), Saint Pierre, Saint Stephen, Salina Cruz, Saltillo, Sierra Leone, Sivas, Stavanger, Suva, Tahita, Tapachula, Turin, Turks Island, Venice. (34 Stat. 99. 35 Stat. 101. 35 Stat. 593.)

The amendments of this section by Act May 11, 1908, c. 101, and Act Feb. 3, 1909, c. 90, cited above, consisted in changes in the classification of consuls-general and consuls by the section as originally enacted.

The appointment of vice-consular officers was provided for by section 3 of this act, post, § 3140.

The appointment of inspectors of consulates, to be designated consuls-general at large, was provided for by section 4 of this act, post, § 3141.

A provision that "the sole and only compensation of consular officers should be "by salaries fixed by law" was made by section 8 of this act, post, § 3188.

§ 3140. (Act April 5, 1906, c. 1366, § 3.) Vice-consular officers; consular agents; grade of commercial agent abolished.
The offices of vice-consuls-general, deputy consuls-general, vice-(1242)
consuls, and deputy consuls shall be filled by appointment, as hereto-
fore, except that whenever, in his judgment, the good of the service
requires it, consuls may be designated by the President without
thereby changing their classification to act for a period not to
exceed one year as vice-consuls-general, deputy consuls-general, vice-
consuls, and deputy consuls; and when so acting they shall not be
deemed to have vacated their offices as consuls. Consular agents may
be appointed, when necessary, as heretofore. The grade of commercial
agent is abolished. (34 Stat. 100.)

Previous provisions for appointment of vice-consular officers and consular
agents were made by R. S. § 1685, post, § 3147.
Additional compensation to vice-consular officers, out of the salaries of the
consul-general or consul for whom they act, was authorized by section 8
of this act, set forth post, § 3186.

§ 3141. (Act April 5, 1906, c. 1366, § 4.) Inspectors of consulates;
designation as consuls-general at large; appointment; duties;
powers; bonds; misconduct and neglect of duty.
There shall be five inspectors of consulates, to be designated and
commissioned as consuls-general at large, who shall receive an
annual salary of five thousand dollars each, and shall be paid their
actual and necessary traveling and subsistence expenses while travel-
ing and inspecting under instructions from the Secretary of State.
They shall be appointed by the President, with the advice and
consent of the Senate, from the members of the consular force pos-
sessing the requisite qualifications of experience and ability. They
shall make such inspections of consular offices as the Secretary of
State shall direct, and shall report to him. Each consular office shall be
inspected at least once in every two years. Whenever the President has
reason to believe that the business of a consulate or a consulate-general
is not being properly conducted and that it is necessary for the public
interest, he may authorize any consul-general at large to suspend the
consul or consul-general, and administer the office in his stead for a
period not exceeding ninety days. In such case the consul-general at
large so authorized shall have power to suspend any vice or deputy
consular officer or clerk in said office during the period aforesaid.
The provisions of law relating to the official bonds of consuls-general,
and the provisions of sections seventeen hundred and thirty-four,
seventeen hundred and thirty-five, and seventeen hundred and thirty-
six, Revised Statutes of the United States, shall apply to consuls-
general at large. (34 Stat. 100.)

Provisions relating to official bonds of consuls-general, mentioned in this
section, were made by R. S. § 1697, post, § 3149.
The provisions of R. S. §§ 1734, 1735, 1736, also mentioned in this section,
relating to embezzlement, neglect of duty, etc., by consular officers, are set
forth post, §§ 3182-3194.

§ 3142. (Act April 5, 1906, c. 1366, § 5.) Consular assistants to be
citizens.
No person who is not an American citizen shall be appointed
hereafter in any consulate-general or consulate to any clerical posi-

(1243)
§ 3142 DIPLOMATIC OFFICERS

The salary of which is one thousand dollars a year or more. (34 Stat. 101.)

The appointment of consular clerks was authorised by R. S. § 1704, post, § 3154. Their salaries were fixed by a provision of Act Feb. 22, 1807, c. 1184, post, § 3155.

§ 3143. (R. S. § 1691.) Consuls, etc., not to hold office at different consulates.

No consul-general or consul shall be permitted to hold the office of consul-general or consul at any other consulate, or exercise the duties thereof.


§ 3144. (Act Feb. 25, 1885, c. 150.) Consuls and consuls-general not to receive salary of secretary of legation or interpreter.

Hereafter no consul or consul-general shall be entitled to or allowed any part of any salary appropriated for payment of a secretary or second secretary of legation or interpreter. (23 Stat. 329.)

This was a provision of the diplomatic and consular appropriation act for the fiscal year 1886, cited above.

(R. S. § 1692. Repealed.)

This section authorised the President to appoint three interpreters of the Chinese language, whose compensation was to be at a rate not to exceed $1,500 a year, and who were to be assigned for duty by the President to such consulates in China as he might think proper. It was repealed as the effect of the repeal of Act Aug. 18, 1856, c. 127, § 6, 11 Stat. 55, which was incorporated in this section of the Revised Statutes, by a provision of Act June 11, 1874, c. 275, § 3, 18 Stat. 70, accompanying the provisions of that act relating to the same subject, set forth post, § 3145.

§ 3145. (Act June 11, 1874, c. 275, § 3.) Interpreters at consulates in China and Japan.

The President shall be, and is hereby, authorized to appoint interpreters to the consulates at Shanghai, Tien Tsin, Fowchow, and Kanagawa, and to allow them salaries not to exceed, in either case, the rate of two thousand dollars a year; and to appoint interpreters to the consulates at Hankow, Amoy, Canton, and Hong-Kong, and to allow them salaries not to exceed, in either case, the rate of seven hundred and fifty dollars a year; and also to allow, at his discretion, a sum not exceeding the rate of five hundred dollars for any one year to any one consulate in China or Japan, respectively, not herein named, for expenses of interpretation. (18 Stat. 70.)

This section was a part of the diplomatic and consular appropriation act for the fiscal year 1875, cited above.

A further provision of this section repealed section 6 of Act Aug. 18, 1856, c. 127, 11 Stat. 55, which was incorporated into R. S. § 1692.

Annual appropriations for interpreters to be employed at consulates in China and Japan, and at other places, are made in the recent diplomatic and consular appropriation acts. The provisions for the fiscal year 1914, were by Act Feb. 28, 1913, c. 86, 37 Stat. 658.

§ 3146. (R. S. § 1693.) Salary of interpreter at Bangkok.

The salary of the interpreter at the consulate of Bangkok, in Siam, shall not exceed the sum of five hundred dollars a year; and no salary shall be allowed the marshal at that consulate.


An appropriation for the interpreter at the consulate of Bangkok, Siam, at (1244)
$1,500 a year, is repealed in recent diplomatic and consular appropriation acts. The provision for the fiscal year 1914 was by Act Feb. 26, 1913, c. 86, 37 Stat. 689.

(R. S. § 1694. Superseded.)
This section authorized the President to discontinue the consulate at Trinidad de Cuba and to appoint at Cienfuegos a consul with the same salary.
It was superseded by the provisions of the Consular Reorganization Act of April 5, 1906, c. 1386, § 2, ante, § 3199.

§ 3147. (R. S. § 1695.) Extent of consulates, and appointment of vice-consular officers.
The President is authorized to define the extent of country to be embraced within any consulate [or commercial agency], and to provide for the appointment of vice-consuls, [vice-commercial agents], deputy consuls, and consular agents, therein, in such manner and under such regulations as he shall deem proper; but no compensation shall be allowed for the services of any such vice-consul, [or vice-commercial agent] beyond nor except out of the allowance made by law for the principal consular officer in whose place such appointment shall be made. No vice-consul, [vice-commercial agent], deputy consul, or consular agent, shall be appointed otherwise than under such regulations as have been or may be prescribed by the President.

The words of this section "or commercial agency" and "vice-commercial agents," inclosed in brackets, were superseded by the abolition of the grade of commercial agents by the Consular Reorganization Act of April 5, 1906, c. 1386, § 2, ante, § 3140.
Subsequent provisions for compensation of vice-consuls were made by said Act April 5, 1906, c. 1386, § 8, post, § 3196.

§ 3148. (R. S. § 1696.) Expenses of vice-consulates and consular agencies.
The only allowance to any vice-consulate or consular agency for expenses shall be an amount sufficient to pay for stationery and postage on official letters.

Act March 3, 1869, c. 125, § 6, 15 Stat. 322.

§ 3149. (R. S. § 1697, as amended, Act Dec. 21, 1898, c. 36, § 1.)
Bonds of consular officers to be furnished and deposited with Secretary of Treasury; suits on bonds.
Every consul-general, consul, [and commercial agent,] before he receives his commission, or enters upon the duties of his office, shall give a bond to the United States, with such sureties, who shall be permanent residents of the United States, as the Secretary of State shall approve, in a penal sum not less than one thousand dollars, and in no case less than the annual compensation allowed to such officer, and not more than ten thousand dollars, and in such form as the President shall prescribe, conditioned for the true and faithful accounting for, paying over, and delivering up of all fees, moneys, goods, effects, books, records, papers, and other property which shall come to his hands, or to the hands of any other person, to his use as such consul-general, consul, [or commercial agent] under any law, now or hereafter enacted, or by virtue of his office; and

(1245)
§ 3149 DIPLOMATIC OFFICERS (Tit. 18)

for the true and faithful performance of all other duties, now or hereafter lawfully imposed upon him as such consul-general, consul, [or commercial agent]. The bond herein mentioned shall be deposited with the Secretary of the Treasury. In case of a breach of any such bond, any person thereby injured may institute, in his own name and for his sole use, a suit on said bond, and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue for him in due form; but if such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant, and the United States shall, in no case, be liable for the same. The said bond shall remain, after any judgment rendered thereon, as a security for the benefit of any person injured by a breach of the condition of the same until the whole penalty has been recovered; and the proceeding shall always be as directed in this section.


This section, as enacted in the Revised Statutes, did not contain after the words "under any law, now or hereafter enacted," the further clause, "or by virtue of his office," and it ended with the provision, "The bond herein mentioned shall be deposited with the Secretary of the Treasury." It was amended by inserting said words "or by virtue of his office," and by adding the provisions beginning with the words "In case of a breach of any such bonds," to the end of the section as set forth here, by Act Dec. 21, 1898, c. 36, § 1, cited above.

The words of this section, "and commercial agent," and "or commercial agent," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1906, c. 1296, § 3, ante, § 3140.

A provision, similar to a general requirement of this section, that "The bonds which consular officers who are not compensated by salaries are required by the thirteenth section of the act of August eighteenth, eighteen hundred and fifty-six, to enter into, shall hereafter be made with such sureties as the Secretary of State shall approve," was made by Act June 11, 1874, c. 275, § 1, 18 Stat. 67. It was superseded by the provision that "the sole and only compensation of officers in the consular service "shall be by salaries fixed by law." of the Consular Reorganization Act of April 5, 1906, c. 1306, § 8, post, § 3186.

Act Aug. 18, 1856, c. 127, § 13, referred to in said provision of Act June 11, 1874, c. 275, § 1, was incorporated, with some changes, in R. S. § 1097, ante, § 3149.

Officers' bonds were required to be examined at least once every two years, and renewed at least once every four years, by Act March 2, 1805, c. 177, § 5, post, §§ 3289, 3290.

Other provisions for suit on bond in case of neglect of duty, etc., were made by R. S. § 1735, post, § 3193.

Consular officers were forbidden to accept appointments from foreign states as administrator, guardian, etc., without giving bond, by Act June 30, 1862, c. 1331, post, § 3105.

The provisions of law relating to official bonds of consul-general were made to apply to the inspectors of consulates, designated as consul-general at large, by a provision of the Consular Reorganization Act of April 5, 1906, c. 1306, § 4, ante, § 3141.

§ 3150. (R. S. § 1698, as amended, Act Dec. 21, 1898, c. 36, § 2.)

Bonds of vice-consuls; deposit with Secretary of Treasury; suits on bonds.

Every vice-consul-general or vice-consul shall, before he enters (1246)
on the execution of his trust, give bonds, with such sureties, who shall be permanent residents of the United States, as shall be approved by the Secretary of State, in a sum not less than two thousand dollars nor more than ten thousand dollars, conditioned for the true and faithful discharge of the duties of his office according to law, and for truly accounting for all moneys, goods, and effects which may come into his possession by virtue of his office. The bond shall be lodged in the office of the Secretary of the Treasury. In case of a breach of any such bond, any person thereby injured may institute, in his own name, and for his sole use, a suit on said bond, and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue for him in due form; but if such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant, and the United States shall in no case be liable for the same. The said bond shall remain after any judgment rendered thereon as a security for the benefit of any person injured by a breach of the condition of the same until the whole penalty has been recovered; and the proceedings shall always be as directed in this section. That when suit is brought upon the bond prescribed in this or the preceding section, if the principal in the bond resides in a foreign country, the summons, or other process, may be served upon him by filing a certified copy of the same with the Secretary of the Treasury, which service shall be deemed sufficient to give the court jurisdiction over the person and property of the defendant; and the bond prescribed in this and the preceding section shall contain a condition to accept such service as sufficient to give the court jurisdiction as aforesaid. The principal shall have ninety days from the time of such service in which to enter his appearance in the action. When a copy of such summons or other process has been filed with the Secretary of the Treasury, he shall at once mail a copy thereof to the principal at his last known place of residence.


This section, as enacted in the Revised Statutes, only required "Every vice-consul" to "give bond, with such sureties as shall be approved by the Secretary of State," etc., and ended with the provision, "The bond shall be lodged in the office of the Secretary of the Treasury." It was amended by inserting, after the word "vice-consul," where it first occurs, the words "general, or vice-consul"; by inserting, after the words "with such sureties," the words "who shall be permanent residents of the United States"; and by adding the provisos beginning with the words "In case of a breach of any such bond," to the end of the section as set forth here, by Act Dec. 21, 1898, c. 36, § 2, last cited above.

See note to R. S. § 1697, ante, § 8149.

§ 3151. (R. S. § 1699, as amended, Act April 5, 1906, c. 1366, § 6.)

Consular officers not to transact business.

No consul-general, consul, or consular agent receiving a salary of more than one thousand dollars a year shall, while he holds his office, be interested in or transact any business as a merchant, factor, broker, or other trader, or as a clerk or other agent for any such person to, from, or within the port, place, or limits of his juris-

(1247)
§ 3151  DIPLOMATIC OFFICERS  (Tit. 18)

iction, directly or indirectly, either in his own name or in the name or through the agency of any other person; nor shall he practice as a lawyer for compensation or be interested in the fees or compensation of any lawyer; and he shall in his official bond stipulate as a condition thereof not to violate this prohibition.


This section, as enacted in the Revised Statutes, was as follows:

"No consul-general, consul, or commercial agent, embraced in schedule B, shall, while he holds his office, be interested in or transact any business as a merchant, factor, broker, or other trader, or as a clerk or other agent for any such person to, from, or within the port, place, or limits of his consulate or commercial agency, directly or indirectly, either in his own name, or in the name or through the agency of any other person; and he shall, in his official bond, stipulate, as a condition thereof, not to violate this prohibition."

It was amended to read as set forth here by the Consular Reorganisation Act of April 5, 1906, c. 1366, § 6, last cited above.

The amendments of this section and of R. S. § 1700, made by said section 6 of the Consular Reorganisation Act, consisted in changes in the description of the consular officers forbidden to engage in business, etc., to conform to the changes made by other provisions of said Consular Reorganisation Act; and in including in this prohibition practicing as a lawyer for compensation or being interested in the fees or compensation of any lawyer.

A provision exempting the consuls at Vladivostock, at Fayal, and at Auckland from the prohibition in R. S. §§ 1899, 1700, may also be regarded as superseded by said amendments and the reorganisation of the consular service.

§ 3152. (R. S. § 1700, as amended, Act April 5, 1906, c. 1366, § 6.)

Extension of prohibition upon transacting business.

All consular officers whose respective salaries exceed one thousand dollars a year shall be subject to the prohibition against transacting business, practicing as a lawyer, or being interested in the fees or compensation of any lawyer contained in the preceding section. And the President may extend the prohibition to any consul-general, consul, or consular agent whose salary does not exceed one thousand dollars a year or who may be compensated by fees, and to any vice or deputy consular officer or consular agent, and may require such officer to give a bond not to violate the prohibition.


This section, as enacted in the Revised Statutes, was as follows:

"All consular officers whose respective salaries exceed one thousand dollars a year, shall be subject to the prohibition against transacting business contained in the preceding section. And the President may extend the prohibition to any consul or commercial agent not embraced in Schedules B and C, and to any vice-consul, vice-commercial agent, deputy consul, or consular agent, and may require such officer to give bond not to violate the same." It was amended to read as set forth here by the Consular Reorganisation Act of April 5, 1906, c. 1366, § 6, last cited above.

See note to preceding section.

§ 3153. (R. S. § 1701.) Penalty for illegally transacting business.

Every consul-general, consul, [or commercial agent] who violates the prohibition against transacting business, required to be inserted in his official bond, shall be liable to a penalty therefor, for the use of the United States, equal in amount to the annual compensation specified for him [in Schedule B], which may be recovered in an ac-
tion of debt at the suit of the United States, either directly for the penalty, as such, against such consul-general, or consul, or commercial agent, or upon his official bond, as liquidated damages, for the breach of such condition against such consul-general, consul, [or commercial agent,] and his sureties, or any one or more of them; and in every such case all such actions shall be open to the United States for the collection of such penalty till the same shall be collected in some one of such actions; and every such penalty, when collected, shall be paid into the Treasury of the United States.


The words of this section "or commercial agent," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganisation Act of April 5, 1906, c. 1366, § 3, ante, § 3140.

The words "in Schedule B," also inclosed in brackets, were superseded by the classification of consular officers by section 2 of the same act, ante, § 3139.

(R. S. §§ 1702, 1703. Superseded.)

R. S. § 1702, was as follows:

"The compensation of consuls whose annual salaries do not, under existing law, exceed one thousand five hundred dollars, shall, when the fees collected at the consulates where they are located and paid into the Treasury of the United States amount to three thousand dollars, be two thousand dollars a year."

R. S. § 1703, was as follows:

"Every vice-consul and commercial agent shall be entitled, as compensation for his services as such, to the whole or so much of the compensation of the principal consular officer in whose place he shall be appointed, as shall be determined by the President, and the residue, if any, shall be paid to such principal consular officer; and every consular agent shall be entitled, as compensation for his services, to such fees as he may collect under the regulations prescribed by the President governing the subject of fees, or to so much thereof as shall be determined by the President; and the principal officer of the consulate or commercial agency within the limits of which such consular agent shall be appointed shall be entitled to the residue, if any, in addition to any other compensation allowed him by law for his services therein."

Both sections were superseded by the different provisions for compensation of consular officers made by the Consular Reorganisation Act of April 5, 1906, c. 1366, § 8, post, § 3186.

§ 3154. (R. S. § 1704.) Appointment of consular assistants.

The President is authorized, whenever he shall think the public good will be promoted thereby, to appoint consular [clerks], not exceeding thirteen in number at any one time, who shall be citizens of the United States, and over eighteen years of age at the time of their appointment, and shall be entitled to compensation for their services respectively at a rate not exceeding one thousand dollars a year each, to be determined by the President; and to assign such [clerks], from time to time, to such consulates and with such duties as he shall direct.

Act June 20, 1864, c. 186, § 2, 13 Stat. 130.

The provision of this section that the compensation of consular clerks should not exceed $1,000 a year, and a provision that the annual salary of clerks after five years' continuous service should be $1,200, made by Act June 11, 1874, c. 275, § 5, 18 Stat. 70, were amended by a provision of Act Feb. 22, 1907, c. 1184, post, § 3155.

The word "clerks," inclosed in brackets where it occurs twice in this section, was superseded by a provision that consular clerks should be styled "consular assistants," of Act May 21, 1908, c. 183, post, § 3156.

The further words of this section, also inclosed in brackets, "not exceeding
§ 3154  DIPLOMATIC OFFICERS  (Tit. 18)

thirteen in number at any one time," were superseded by provisions for additional consular assistants, of said Act May 21, 1908, c. 183, and Act March 2, 1909, c. 235, post, §§ 3156, 3157.

The diplomatic and consular appropriation acts for each year provide for an allowance for clerk hire. The provision for the fiscal year 1914 was by Act Feb. 28, 1913, c. 86, 37 Stat. 696.

No person not an American citizen was to be appointed in any consulate general or consulate to any clerical position the salary of which is $1,000 a year or more, by the Consular Reorganisation Act of April 5, 1900, c. 1368, § 5, ante, § 3142.


From and after the first day of July, nineteen hundred and seven, the salaries of consular [clerks] shall be at the rate of one thousand dollars a year for the first three years of continuous service as such, and shall be increased two hundred dollars a year for each succeeding year of continuous service until a maximum compensation of one thousand eight hundred dollars a year shall be reached, and section seventeen hundred and four, Revised Statutes, and its amendatory Act of June eleventh, eighteen hundred and seventy-four, are hereby so amended: Provided, That the salary of no consular clerk herein provided for, and now in the service, shall be reduced by this act. (34 Stat. 923.)

This was a provision of the diplomatic and consular appropriation act for the fiscal year 1908, cited above.

R. S. § 1704, amended thereby, is set forth ante, § 3154. The provision of Act June 11, 1874, c. 275, § 5, 18 Stat. 70, making the salary $1,200 after five years' service, was superseded by this provision.

The word "clerks," inclosed in brackets in this section, was superseded by a provision that consular clerks should be styled "consular assistants," of Act May 21, 1908, c. 183, post, § 3156.

§ 3156. (Act May 21, 1908, c. 183.) Consular clerks to be styled consular assistants; number increased.

The consular clerks heretofore provided for by law shall, from and after the first day of July, nineteen hundred and eight, be styled consular assistants.

For thirteen consular assistants as provided for by law, * * *, seven additional consular assistants, subject to the same provisions of law as the above thirteen. (35 Stat. 180.)

These were provisions of the diplomatic and consular appropriation act for the fiscal year 1909, cited above.

A subsequent provision for twelve additional consular assistants was made by the similar act for the next following year, Act March 2, 1909, c. 235, post, § 3157.

§ 3157. (Act March 2, 1909, c. 235.) Consular assistants; number increased.

For thirteen consular assistants as provided for by law, * * *, twelve additional consular assistants, subject to the same provisions of law as the above thirteen. (35 Stat. 681.)

This was a provision of the diplomatic and consular appropriation act for the fiscal year 1910, cited above.

The recent diplomatic and consular appropriation acts provide for increased numbers of consular assistants. The provision for the fiscal year 1914 was,
§ 3158. (R. S. § 1705.) Examination and removal of consular assistants.

Before the appointment of any such consular [clerk] shall be made, it shall be satisfactorily shown to the Secretary of State, after due examination and report by an examining board, that the applicant is qualified and fit for the duties to which he shall be assigned; and such report shall be laid before the President. And no clerk so appointed shall be removed from office, except for cause stated in writing, which shall be submitted to Congress at the session first following such removal.

Act June 20, 1864, c. 136, § 2, 13 Stat. 139.
See note to § 3154, ante, as to clerks.

§ 3159. (R. S. § 1706.) Actual expenses may be allowed to consuls-general, etc., who are not allowed to trade.

The President may allow consuls-general, consuls, [and commercial agents], who are not allowed to trade, actual expenses of office-rent, not to exceed, in any case, twenty per centum of the amount of the annual compensation allowed to such officer, whenever he shall think there is sufficient reason therefor.


The words of this section, "and commercial agents," inserted in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1906, c. 1366, § 3, ante, § 3140.

Consular officers whose salaries exceed $1,000 were forbidden to trade by R. S. §§ 1869, 1700, as amended by said Consular Reorganization Act of April 5, 1906, c. 1366, § 6, ante, §§ 3151, 3152. And the "sole and only compensation" of consular officers was to be "by salaries fixed by law," by a further provision of section 8 of said act, post, § 3186.

§ 3160. (R. S. § 1707.) Protests.

Consuls and vice-consuls shall have the right, in the ports or places to which they are severally appointed, of receiving the protests or declarations which captains, masters, crews, passengers, or merchants, who are citizens of the United States, may respectively choose to make there; and also such as any foreigner may choose to make before them relative to the personal interest of any citizen of the United States. Copies of such acts duly authenticated by consuls or vice-consuls, under the seal of their consulates, respectively, shall be received in evidence equally with their originals in all courts in the United States.

Act April 14, 1792, c. 24, § 2, 1 Stat. 255.

Copies of all official documents and papers in the office of any consul, vice-consul, or commercial agent of the United States, and of all official entries in the books or records of any such office, certified under the hand and seal of such officers, were made admissible in evidence in the courts of the United States by R. S. § 896, ante, § 1509.

§ 3161. (R. S. § 1708.) Lists and returns of seamen, vessels, etc.

Every consular officer shall keep a detailed list of all seamen and mariners shipped and discharged by him, specifying their names and the names of the vessels on which they are shipped and from which
§ 3161. DIPLOMATIC OFFICERS

they are discharged, and the payments, if any, made on account of each so discharged; also of the number of the vessels arrived and departed, the amounts of their registered tonnage, and the number of their seamen and mariners, and of those who are protected, and whether citizens of the United States or not, and as nearly as possible the nature and value of their cargoes, and where produced, and shall make returns of the same, with their accounts and other returns, to the Secretary of the Treasury.


Consular officers were authorized to discharge seamen, upon their application therefor, when entitled thereto, under R. S. §§ 4561, 4580, post, §§ 8350, 8371.

The commanding officer of any fleet, squadron, or vessel acting singly, upon the high seas, or in any foreign port where there is no resident consul of the United States, was authorized to exercise all the powers of a consul in relation to mariners of the United States, by R. S. § 1433, ante, § 2603.

§ 3162. (R. S. § 1709, as amended, Act March 3, 1911, c. 223.) Estates of decedents; duties of Auditor for State and other Departments, as conservator, etc.

It shall be the duty of consuls and vice-consuls, where the laws of the country permit:

First. To take possession of the personal estate left by any citizen of the United States, other than seamen belonging to any vessel, who shall die within their consulate, leaving there no legal representative, partner in trade, or trustee by him appointed to take care of his effects.

Second. To inventory the same with the assistance of two merchants of the United States, or, for want of them, of any others at their choice.

Third. To collect the debts due the deceased in the country where he died, and pay the debts due from his estate which he shall have there contracted.

Fourth. To sell at auction, after reasonable public notice, such part of the estate as shall be of a perishable nature, and such further part, if any, as shall be necessary for the payment of his debts, and, at the expiration of one year from his decease, the residue.

Fifth. To transmit the balance of the estate to the Treasury of the United States, to be held in trust for the legal claimant; except that if at any time before such transmission the legal representative of the deceased shall appear and demand his effects in their hands they shall deliver them up, being paid their fees, and shall cease their proceedings.

Sixth. The Auditor for the State and other Departments shall act as conservator of such part of these estates as may be received at the Treasury, and for their protection the Secretary of the Treasury may order such effects to be sold as may consist of jewelry or other articles which have heretofore or may hereafter be received at the Treasury, and pay the expenses of such sale out of the proceeds, provided application for these effects shall not have been made by the legal claimant within two years after their receipt. The Auditor is authorized to indorse all bills of exchange, promissory notes, and other evidences of indebtedness due to such estates, and to take such steps as may be

(1252)
necessary for their collection. The proceeds of such sales, together with such other moneys as may be collected by him, shall be deposited into the Treasury in trust for the legal claimant, and be reported to the Secretary of State.


This section, as enacted in the Revised Statutes, did not contain the sixth paragraph set forth here. That paragraph was added by amendment by Act March 3, 1911, c. 223, last cited above.

Consular officers were forbidden to accept an appointment from any foreign state as administrator, guardian, etc., without executing a bond, with security, and accepting any such appointment without giving bond, or failing to account, etc., for any money, property, etc., was made punishable, by Act June 30, 1902, c. 1331, post, §§ 3155, 3166.

Provisions for the administration of estates of decedents in China, under the supervisory control of the United States court for China, were made by the act establishing that court, Act June 30, 1906, c. 3934, § 2, post, § 7699.

A permanent appropriation for payment of the proceeds of the personal estates of American citizens who die abroad, to their legal representatives, was made by R. S. § 3689, post, § 6799 (3).

Embezzlement by a consular officer of money, property, etc., of a citizen of the United States received by him, was made punishable by R. S. § 1734, as amended by Act Dec. 21, 1898, c. 36, § 3, post, § 3192.

§ 3163. (R. S. § 1710.) Notification of death.

For the information of the representative of the deceased, the consul or vice-consul, in the settlement of his estate, shall immediately notify his death in one of the gazettes published in the consulate, and also to the Secretary of State, that the same may be notified in the State to which the deceased belonged; and he shall, as soon as may be, transmit to the Secretary of State an inventory of the effects of the deceased, taken as before directed.

Act April 14, 1792, c. 24, § 2, 1 Stat. 255.

§ 3164. (R. S. § 1711.) Decedent’s directions to be followed.

When any citizen of the United States, dying abroad, leaves, by any lawful testamentary disposition, special directions for the custody and management, by the consular officer of the port or place where he dies, of the personal property of which he dies possessed in such country, such officer shall, so far as the laws of the country permit, strictly observe such directions. When any such citizen so dying, appoints, by any lawful testamentary disposition, any other person than such officer to take charge of and manage such property, it shall be the duty of the officer, whenever required by the person so appointed, to give his official aid in whatever way may be necessary to facilitate the proceedings of such person in the lawful execution of his trust, and, so far as the laws of the country permit, to protect the property of the deceased from any interference of the local authorities of the country where such citizen dies; and to this end it shall be the duty of such consular officer to place his official seal upon all of the personal property or effects of the deceased, and to break and remove such seal as may be required by such person, and not otherwise.


(1253)
§ 3165. (Act June 30, 1902, c. 1331, § 1.) Bonds of consular officers accepting appointments from foreign states as administrators, guardians, etc.

No consular officer of the United States shall accept an appointment from any foreign state as administrator, guardian, or to any other office of trust for the settlement or conservation of estates of deceased persons or of their heirs or of persons under legal disabilities, without executing a bond, with security, to be approved by the Secretary of State, and in a penal sum to be fixed by him and in such form as he may prescribe, conditioned for the true and faithful performance of all his duties according to law and for the true and faithful accounting for, delivering, and paying over to the persons thereto entitled of all moneys, goods, effects, and other property which shall come to his hands or to the hands of any other person to his use as such administrator, guardian, or in other fiduciary capacity. Said bond shall be deposited with the Secretary of the Treasury. In case of a breach of any such bond, any person injured by the failure of such officer faithfully to discharge the duties of his said trust according to law, may institute, in his own name and for his sole use, a suit upon said bond and thereupon recover such damages as shall be legally assessed, with costs of suit, for which execution may issue in due form; but if such party fails to recover in the suit, judgment shall be rendered and execution may issue against him for costs in favor of the defendant; and the United States shall in no case be liable for the same. The said bond shall remain, after any judgment rendered thereon, as a security for the benefit of any person injured by a breach of the condition of the same until the whole penalty has been recovered. (32 Stat. 546.)

This section and the section next following were an act entitled "An act to prevent any consular officer of the United States from accepting any appointment from any foreign state as administrator, guardian, or to any other office of trust, without first executing a bond, with security, to be approved by the Secretary of State."

General provisions relating to bonds of consular officers were made by R. S. §§ 1697, 1668, ante, §§ 3149, 3150.

§ 3166. (Act June 30, 1902, c. 1331, § 2.) Acceptance of appointment without bond, or failure to account, etc., punishable as embezzlement.

Every consular officer who accepts any appointment to any office of trust mentioned in the preceding section without first having complied with the provisions thereof by due execution of a bond as therein required, or who shall willfully fail or neglect to account for, pay over, and deliver any money, property, or effects so received to any person lawfully entitled thereto, after having been requested by the latter, his representative or agent so to do, shall be deemed guilty of embezzlement and shall be punishable by imprisonment for not more than five years and by a fine of not more than five thousand dollars. (32 Stat. 547.)

Previous provisions making punishable embezzlement by consular officers were made by R. S. § 1734, post, § 3192.

(1254)
§ 3167. (R. S. § 1712; as amended, Act June 18, 1888, c. 393.) Commercial and agricultural reports; information to be embodied in bulletins of crop reports.

Consuls [and commercial agents] of the United States in foreign countries shall procure and transmit to the Department of State authentic commercial information respecting such countries, of such character and in such manner and form and at such times as the Department may from time to time prescribe. And they shall also procure and transmit to the Department of State, for the use of the Agricultural Department, monthly reports relative to the character, condition, and prospective yields of the agricultural and horticultural industries and other fruiteries of the country in which they are respectively stationed; and the [Commissioner of Agriculture] is hereby required and directed to embody the information thus obtained, or so much thereof as he may deem material and important, in his monthly bulletin of crop reports.


This section, as enacted in the Revised Statutes, contained only the provision requiring consuls and commercial agents to procure and transmit commercial information. The further provisions, requiring reports of agricultural, etc., information to be embodied in the bulletins of crop reports of the Department of Agriculture, beginning with the words, "And they shall also procure and transmit," to the end of the section, as set forth here, were added by amendment by Act June 18, 1888, c. 393, last cited above.

The words of this section, "and commercial agents," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1906, c. 1366, § 3, ante, § 3169.

The words in the last provision added to this section by the amendment mentioned above, "Commissioner of Agriculture," also inclosed in brackets, were superseded by the establishment of the Department of Agriculture as an Executive Department, under a Secretary of Agriculture, by Act Feb. 9, 1889, c. 122, §§ 789–792, and the transfer to said Secretary of the duties previously to be performed by the Commissioner of Agriculture, by Act July 14, 1890, c. 707, ante, § 819.

Subsequent provisions for reports of information and statistics gathered by Consular officers, and for the transmission of such reports to the Secretary of the Department of Commerce, were made by Act Feb. 14, 1903, c. 552, §§ 5, 11, ante, §§ 292, 875, which act superseded, to some extent, the provisions for the publication of commercial information made by R. S. § 211, ante, § 262.

Provisions for the printing of daily consular reports were made by Act June 25, 1910, c. 388, § 1, post, § 7122.

Provisions relating to the monthly crop report issued by the Department of Agriculture were made by Act March 4, 1909, c. 301, ante, § 808.

§ 3168. (Act Jan. 27, 1879, c. 28, § 1.) Statement of exports and imports, and rate of wages.

It shall be the duty of consuls to make to the Secretary of State a quarterly statement of exports from, and imports to, the different places to which they are accredited, giving, as near as may be, the market price of the various articles of exports and imports, the duty and port charges, if any, on articles imported and exported, together with such general information as they may be able to obtain as to how, where, and through what channels a market may be opened for American products and manufactures. In addition to the duties now imposed by law, it shall be the duty of consuls [and

(1255)
commercial agents] of the United States, annually, to procure and transmit to the Department of State, as far as practicable, information respecting the rate of wages paid for skilled and unskilled labor within their respective jurisdictions. (20 Stat. 267.)

This was a provision of the diplomatic and consular appropriation act for the fiscal year 1888, cited above.
The words of this section "and commercial agents," inclosed in brackets, were superseded by the abolition of the grade of commercial agents by the Consular Reorganization Act of April 5, 1906, c. 1366, § 3, ante, § 3140.
Other provisions for obtaining information and statistics as to the kind, quantity, and value of merchandise imported were made by the Underwood Tariff Act of Oct. 3, 1913, c. 16, § 111, F, post, § 5528.

§ 3169. (R. S. § 1713, as amended, Act June 18, 1888, c. 393.) Reports of prices current, and as to agricultural implements and pursuits; information to be included in reports of Secretary of Agriculture.

Every consular officer shall furnish to the Secretary of the Treasury, as often as shall be required, the prices current of all articles of merchandise usually exported to the United States from the port or place in which he is situated; and he shall also furnish to the Secretary of the Treasury, at least once in twelve months, the prices current of all articles of merchandise, including those of the farm, the garden, and the orchard, that are imported through the port or place in which he is stationed. And he shall also report as to the character of agricultural implements in use, and whether they are imported or manufactured in that county; as to the character and extent of agricultural and horticultural pursuits there. That part of the information thus obtained which pertains to agriculture shall be transmitted by the Secretary of the Treasury, as soon as the same shall have been received by him, to the [Commissioner of Agriculture], who shall include the same, or so much thereof as he may deem material and important, in his annual reports, stating the said prices in dollars and cents, and rendering tables of foreign weights and measures into their American equivalents.

This section, as enacted in the Revised Statutes, contained only the provision requiring every consular officer to report prices current of all articles usually exported to the United States from the place in which he was situated. The further provisions, beginning with the words, "and he shall also furnish to the Secretary of the Treasury," to the end of the section as set forth here, were added by amendment by Act June 18, 1888, c. 393, last cited above.
The words of this section inclosed in brackets, "Commissioner of Agriculture," were superseded by the establishment of the Department of Agriculture as an Executive Department, under a Secretary of Agriculture, by Act Feb. 9, 1889, c. 122, ante, §§ 769, 792, and by the transfer of the authority and duties of the Commissioner of Agriculture to said Secretary of Agriculture, by Act July 14, 1890, c. 707, ante, § 819.

§ 3170. (R. S. § 1714.) Construction of powers.
The specification in this Title of certain powers to be exercised and duties to be performed by consuls and vice-consuls, shall not be construed as implying the exclusion of others resulting from the na-
ture of their appointments, or prescribed by any treaty or convention under which they may act.

Act April 14, 1792, c. 24, § 9, 1 Stat. 257.

§ 3171. (R. S. § 1715.) Certifying invoices.
No consular officer shall certify any invoice unless he is satisfied that the person making oath thereto is the person he represents himself to be, that he is a credible person, and that the statements made under such oath are true; and he shall, thereupon, by his certificate, state that he was so satisfied.

A somewhat similar provision was made by R. S. § 2862, post, § 5546.
A declaration was required to be indorsed on invoices produced to the consular officer by the Customs Administrative Act of June 10, 1890, c. 407, § 8, 26 Stat. 131, as amended by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 28, 36 Stat. 91, and further amended by the Underwood Tariff Act of Oct. 3, 1913, c. 18, § 111, D, post, § 5521.

§ 3172. (R. S. § 1716.) Exacting excessive fees for verifying invoices.
The fee provided by law for the verification of invoices by consular officers shall, when paid, be held to a full payment for furnishing blank forms of declaration to be signed by the shipper, and for making, signing, and sealing the certificate of the consular officer thereto; and any consular officer who, under pretense of charging for blank forms, advice, or clerical services in the preparation of such declaration or certificate, charges or receives any fee greater in amount than that provided by law for the verification of invoices, or who demands or receives for any official services, or who allows any clerk or subordinate to receive for any such service any fee or reward other than the fee provided by law for such service, shall be punishable by imprisonment for not more than one year, or by a fine of not more than two thousand dollars; and shall be removed from his office.

Provisions for refunding excessive fees, with a penalty for the collection thereof, were made by R. S. § 1723, post, § 3179.
Fees for certification of invoices were included with the fees for which the President was authorized, by R. S. § 1745, post, § 3205, to prescribe rates or tariffs, by the Consular Reorganization Act of April 5, 1906, c. 1366, § 8, post, § 3186.

§ 3173. (Act Feb. 24, 1903, c. 753.) Destruction of old invoices filed in consular offices.
The Secretary of State is authorized to cause, from time to time, the destruction of invoices that have been filed in the consular offices for a period of more than five years. (32 Stat. 854.)
This was an act to permit the destruction of invoices, cited above.
Provisions for the disposition of accumulations of useless papers in the departments were made by Act Feb. 16, 1889, c. 171, and subsequent provisions, ante, §§ 282, 283.

§ 3174. (R. S. § 1717.) Certificate for goods from countries adjacent to United States.
That no consular officer of the United States shall hereafter grant a certificate for goods, wares, or merchandise shipped from countries
§ 3174  DIPLOMATIC OFFICERS

adjacent to the United States, which have passed a consulate after purchase for shipment.

A similar provision was made by R. S. § 2361, post, § 5545.

§ 3175. (R. S. § 1718.) Fees allowed for official services; vessels' papers to be retained until payment of demands and wages.

[Whenever any master or commander of a vessel of the United States has occasion for any consular or other official service, which any consular officer of the United States is authorized by law or usage officially to perform, and for which any fees are allowed by the rates or tariffs of fees, he shall apply to the consular officer at the consulate or commercial agency where such service is required to perform such service, and shall pay to such officer the fees allowed for such service by the rates or tariffs of fees. And every such master or commander who omits so to do shall be liable to the United States for the amount of the fees lawfully chargeable for such services when actually performed.] All consular officers are authorized and required to retain in their possession all the papers of such vessels, which shall be deposited with them as directed by law, till payment shall be made of all demands and wages on account of such vessels.


The provisions of this section for payment of consular fees by masters or commanders of vessels of the United States, inclosed in brackets, were superseded by subsequent provisions prohibiting the collection of such fees from American vessels or seamen for official services, and providing for the payment from the Treasury to consular officers deprived of such fees of an amount equal thereto, by Act June 26, 1884, c. 121, § 12, post, § 3176.

A copy of the rates or tariffs of fees which diplomatic and consular officers were entitled to receive was required to be attached to the clearance granted to any vessel bound on a foreign voyage by R. S. § 4207, post, § 7708.

Provisions relating to the deposit of ships' papers with consular officers by masters of vessels were made by R. S. § 4306, post, § 8055.

§ 3176. (Act June 26, 1884, c. 121, § 12.) No consular fees for official services to American vessels or seamen.

On and after July first, eighteen hundred and eighty-four, no fees named in the tariff of consular fees prescribed by order of the President shall be charged or collected by consular officers for the official services to American vessels and seamen. Consular officers shall furnish the master of every such vessel with an itemized statement of such services performed on account of said vessel, with the fee so prescribed for each service, and make a detailed report to the Secretary of the Treasury of such services and fees, under such regulations as the Secretary of State may prescribe; and the Secretary of the Treasury shall allow consular officers who are paid in whole or in part by fees such compensation for said services as they would have received prior to the passage of this act: Provided, That such services, in the opinion of the Secretary of the Treasury have been necessarily rendered: and a sum sufficient for the payment of such compensation, when thus adjusted by the Secretary of the Treasury,
is hereby appropriated out of any money in the Treasury not otherwise appropriated. (23 Stat. 56.)

This section was part of an act to remove certain burdens on the American merchant marine, etc., cited above.

A subsequent provision that "the sole and only compensation" of consular officers "shall be by salaries fixed by law," but not applying to consular agents, was made by the Consular Service Reorganization Act of April 5, 1906, c. 1366, § 8, post, § 3180.

§ 3177. (R. S. § 1719.) No profit from discharged seamen.

No consular officer, nor any person under any consular officer shall make any charge or receive, directly or indirectly, any compensation, by way of commission or otherwise, for receiving or disbursing the wages or extra wages to which any seaman or mariner is entitled who is discharged in any foreign country, or for any money advanced to any such seaman or mariner who seeks relief from any consulate or commercial agency; nor shall any consular officer, or any person under any consular officer, be interested, directly or indirectly, in any profit derived from clothing, boarding, or otherwise supplying or sending home any such seaman or mariner. Such prohibition as to profit, however, shall not be construed to relieve or prevent any such officer who is the owner of or otherwise interested in any vessel of the United States, from transporting in such vessel any such seaman or mariner, or from receiving or being interested in such reasonable allowance as may be made for such transportation by law.


Provisions relating to the discharge and return by consular officers of seamen were made by R. S. §§ 4561, 4577, 4578, 4580, 4581, post, §§ 8350, 8358, 8369, 8371, 8372.

A proviso, annexed to an appropriation for expenses of shipping and discharging seamen at Liverpool, London, Cardiff, Belfast, and Hamburg, "that the fees collected at those ports for shipping and discharging seamen shall be paid into the Treasury as required by law," made by Act Jan. 27, 1879, c. 28, 20 Stat. 273, was superseded by the general provisions for accounting for fees of the Consular Reorganization Act of April 5, 1906, c. 1366, § 8, post, § 3186.

(R. S. § 1720. Superseded.)

This section was as follows:

"American vessels running regularly by weekly or monthly trips, or otherwise, to or between foreign ports, shall not be required to pay fees to consuls for more than four trips in a year."

It was superseded by provisions prohibiting the collection of consular fees from American vessels made by Act June 28, 1884, c. 121, § 12, ante, § 3178. See note to R. S. § 1718, ante, § 3175.

(R. S. § 1721. Repealed.)

This section was as follows:

"The fee for certifying invoices to be charged by the consul-general for the British North American provinces, and his subordinate consular officers and agents, for goods not exceeding one hundred dollars in value, shall be one dollar."

It was repealed by Act April 5, 1906, c. 1366, § 9, 34 Stat. 101.

§ 3178. (R. S. § 1722.) Tonnage fees in Canada.

No consul, vice-consul, or consular agent in the Dominion of Canada, shall be allowed tonnage fees for any services, actual or con-
§ 3178  DIPLOMATIC OFFICERS  (Tit. 18)

structive, rendered any vessel owned and registered in the United
States that may touch at a Canadian port; and in the collection of
official fees they shall receive foreign moneys at the rate given in the
Treasury schedule of the value of foreign coins.

See note to R. S. § 1718, ante, § 3175.

A provision requiring all fees collected by consular officers for and in behalf
of the United States to be collected in coin of the United States, or at its
representative value in exchange, was made by R. S. § 1746, post, § 3200.

§ 3179. (R. S. § 1723.)  Exacting excessive fees.
Whenever any consular officer collects, or knowingly allows to be
collected for any service, any other or greater fees than are allowed
by law for such service, he shall, besides his liability to refund the
same, be liable to pay to the person by whom or in whose behalf the
same are paid, treble the amount of the unlawful charge so collected,
as a penalty, to be recovered with costs, in any proper form of ac-
tion, by such person for his own use.  And in any such case the Secre-
tary of the Treasury may retain out of the compensation of such
officer, the amount of such overcharge, and of such penalty, and
charge the same to such officer in account, and may thereupon
refund such unlawful charge, and pay such penalty to the person ent-
titled to the same if he shall think proper so to do.


Exacting excessive fees for verifying invoices was made punishable by R.
S. § 1716, ante, § 3172.
See note to R. S. § 1718, ante, § 3175.

§ 3180. (R. S. § 1724.)  Penalty for omission to collect fees.
Every consul-general, consul, [or commercial agent], [mentioned
in Schedules B and C], or vice-consul, [or vice-commercial agent],
appointed to perform the duty of any such officer [mentioned in
Schedules B and C], who omits to collect any fees which he is en-
titled to charge for any official service, shall be liable to the United
States therefor, as if he had collected the same; unless, upon good
cause shown therefor, the Secretary of the Treasury shall think
proper to remit the same.

The words of this section, "or commercial agent" and "or vice-commercial
agent," inclosed in brackets, were superseded by the abolition of the grade of
commercial agent by the Consular Reorganization Act of April 5, 1906, c.
1306, § 3, ante, § 3139.
The words "mentioned in Schedules B and C," also inclosed in brackets, were
superseded by the Classification of Consular Officers by section 2 of said Con-
sular Reorganization Act, ante, § 3128.
See note to R. S. § 1718, ante, § 3175.

§ 3181. (R. S. § 1725.)  Returns of fees.
All such consuls-general, consuls, [commercial agents], and con-
sular agents, as are allowed for their compensation the whole or any
part of the fees which they may collect, and all such vice-consuls
[and vice-commercial agents] appointed to perform the duties of
such consuls-general, consuls, [and commercial agents] as are al-
lowed for their compensation the whole or any part of such fees,
shall make returns in such manner as the Secretary of State shall
(1260)
prescribe, of all such fees as they or any person in their behalf so collect.

The words of this section, "commercial agents," "and vice-commercial agents," and "and commercial agents," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1906, c. 1366, § 3, ante, § 3140.

Subsequent provisions for accounting for fees were made by section 8 of said act, post, § 3186.
A provision that the returns of fees mentioned in this section should be made as prescribed by the Comptroller of the Treasury, was made by the Dockery Act of July 31, 1894, c. 174, § 5, ante, § 408.
See note to R. S. § 1718, ante, § 3175.
The President was authorized to prescribe regulations, not inconsistent with law, in relation to rendering of accounts and returns, etc., by R. S. § 1762, post, § 3212.

§ 3182. (R. S. § 1726.) Receipts for fees.
Every consular officer shall give receipts for all fees collected for his official services, expressing the particular services for which the same were collected.

Subsequent provisions for official stamps for amount of fee, to be affixed to document and canceled, were made by the Consular Reorganization Act of April 5, 1906, c. 1366, § 10, post, § 3188.
Masters of vessels for whom official services were performed by any consular officer, without payment of a fee, were to require a written statement of such services from him, and furnish it to the collector of the district in which the vessel first arrives, whose duty it was to forward such statement to the Secretary of the Treasury, by R. S. § 4213, as amended by Act June 28, 1884, c. 121, § 13, post, § 7803.
See note under R. S. § 1718, ante, § 3175.

§ 3183. (R. S. § 1727.) Registering receipts for fees.
Every consular officer shall number all receipts given by him for fees received for official services, in the order of their dates, beginning with number one at the commencement of the period of his service, and on the first day of January in every year thereafter. He shall also register in a book to be kept by him for that purpose all fees so received by him, in the order in which they are received, specifying each item of service and the amount received therefor, from whom, and the dates when received, and if for any service connected with any vessel, the name thereof, and indicating what items and amounts are embraced in each receipt given by him therefor, and numbering the same according to the number of the receipts respectively, so that the receipts and register shall correspond with each other; and he shall, in such register, specify the name of the person for whom, and the date when he shall grant, issue, or verify any passport, certify any invoice, or perform any other official service in the entry of the receipt of the fees therefor, and also number each consular act so received for with the number of such receipt, and as shown by such register.

See note to R. S. § 1718, ante, § 3175.

(1261)
§ 3184. (R. S. § 1728.) Verification of account of fees.

Every consular officer, in rendering his account of fees received shall furnish a full transcript of the register which he is required to keep, and make oath that, to the best of his knowledge, the same is true, and contains a full and accurate statement of all fees received by him, or for his use, for his official services as such consular officer, during the period for which it purports to be rendered. Such oath may be taken before any person having authority to administer oaths at the port or place where the consular officer is located. If any such consular officer willfully and corruptly commits perjury, in any such oath, within the intent and meaning of any act of Congress now or hereafter made, he may be charged, proceeded against, tried, and convicted, and dealt with in the same manner, in all respects, as if such offense had been committed in the United States, before any officer duly authorized therein to administer or take such oath, and shall be subject to the same punishment and disability therefor as are or shall be prescribed for such offense.

See note to R. S. § 1718, ante, § 3175.

§ 3185. (Act April 5, 1906, c. 1366, § 7.) Consular officers required to perform notarial acts; fees therefor.

Every consular officer of the United States is hereby required, whenever application is made to him therefor, within the limits of his consulate, to administer to or take from any person any oath, affirmation, affidavit, or deposition, and to perform any other notarial act which any notary public is required or authorized by law to do within the United States; and for every such notarial act performed he shall charge in each instance the appropriate fee prescribed by the President under section seventeen hundred and forty-five, Revised Statutes. (34 Stat. 101.)

This section and the three sections next following were part of the Consular Reorganization Act of 1906, cited above.

The preceding sections 1-5 of the act are set forth ante, §§ 3138-3142, and section 6, amending R. S. §§ 1699, 1700, is incorporated in those sections as set forth ante, §§ 3151, 3152.

R. S. § 1746, mentioned in this section, is set forth post, § 3206.

Previous provisions authorizing every secretary of legation or consular officer, whenever he is required or deems it necessary or proper to do so, to perform notarial acts such as described in this section, were made by R. S. § 1750, post, § 3211.

§ 3186. (Act April 5, 1906, c. 1366, § 8.) Consular officers to account for fees; compensation to be by salary only; consular agents to be paid one-half of fees received; additional compensation to vice-consular officers.

All fees, official or unofficial, received by any officer in the consular service for services rendered in connection with the duties of his office or as a consular officer, including fees for notarial services, and fees for taking depositions, executing commissions or letters rogatory, settling estates, receiving or paying out moneys, caring for or disposing of property, shall be accounted for and paid into the Treasury of the United States, and the sole and only compensation of such officers shall be by salaries fixed by law; but this shall not apply to

(1262)
Diplomatic Officers § 3188

Consular agents, who shall be paid by one half of the fees received in their offices, up to a maximum sum of one thousand dollars in any one year, the other half being accounted for and paid into the Treasury of the United States. And vice-consuls-general, deputy consuls-general, vice-consuls, and deputy consuls, in addition to such compensation as they may be entitled to receive as consuls or clerks, may receive such portion of the salaries of the consul-general or consuls for whom they act as shall be provided by regulation. (34 Stat. 101.)

See notes to section 7 of this act, ante, § 3185.

Previous provisions relating to compensation of various consular officers, made by R. S. §§ 1702, 1703, 1720, 1730, were superseded by the provisions of this section and sections 2 and 3 of this act, ante, §§ 3139, 3140.

Previous provisions for returns, accounts, and disposition of fees were made by R. S. §§ 1725-1728, ante, §§ 3181-3184, and R. S. §§ 1732, 1733, 1747, post, §§ 3190, 3191, 3206.

Actual expenses were allowed to consular officers not permitted to trade by R. S. § 1706, ante, § 3159.

A prohibition against extra compensation was made by R. S. § 1743, post, § 3202.

§ 3187. (Act April 5, 1906, c. 1366, § 9.) Fees for consular certification of invoices to be prescribed by President.

Fees for the consular certification of invoices shall be, and they hereby are, included with the fees for official services for which the President is authorized by section seventeen hundred and forty-five of the Revised Statutes to prescribe rates or tariffs. (34 Stat. 101.)

A further provision of this section repealed R. S. § 2851, which provided for certification of invoices of imported merchandise by the collector of the post, and R. S. § 1721, which prescribed a fee of one dollar to be charged by the consul-general for the British North American provinces, for certifying invoices of goods not exceeding $100 in value.

R. S. § 1745, mentioned in this section, is set forth post, § 3205.

§ 3188. (Act April 5, 1906, c. 1366, § 10.) Stamps for amount of fee for consular or notarial act to be affixed to document and canceled; effect of failure to affix and cancel stamp.

Every consular officer shall be provided and kept supplied with adhesive official stamps, on which shall be printed the equivalent money value of denominations and to amounts to be determined by the Department of State, and shall account quarterly to the Department of State for the use of such stamps and for such of them as shall remain in his hands.

Whenever a consular officer is required or finds it necessary to perform any consular or notarial act he shall prepare and deliver to the party or parties at whose instance such act is performed a suitable and appropriate document as prescribed in the consular regulations and affix thereto and duly cancel an adhesive stamp or stamps of the denomination or denominations equivalent to the fee prescribed for such consular or notarial act, and no such act shall be legally valid within the jurisdiction of the Government of the United States unless such stamp or stamps is or are affixed and canceled. (34 Stat. 102.)

A previous provision for giving receipts for fees was made by R. S. § 1726, ante, § 3182.

(1263)
§ 3189  DIPLOMATIC OFFICERS  (Tit. 18)

(R. S. §§ 1729, 1730. Superseded.)

R. S. § 1729, was as follows:
"All fees collected by any consul or commercial agent not mentioned in Schedule B or C, or by any vice-consul or commercial agent appointed to perform their duties, or by any other person in their behalf, shall be accounted for to the Secretary of the Treasury in the manner prescribed by the five preceding sections."

R. S. § 1730, was as follows:
"Consuls-general, consuls, and commercial agents, not embraced in Schedules B and C, shall be entitled, as compensation for their services, to such fees as they may collect under the regulations prescribed by the President governing the subject of fees."

Both sections were superseded by different provisions for the classification of consular officers and for salaries of such officers made by the Consular Reorganization Act of April 5, 1906, c. 1306, §§ 2, 3, 8, ante, §§ 3139, 3140, and post, § 3186.

Provisions that it should not be lawful for any consular officer to appropriate to his own use or expend from the amount received from the fees of his office any sum in excess of the allowance of salary and fees directly authorized by law, etc., made by Act July 7, 1884, c. 334, § 1, were also superseded by the provisions of said act.

§ 3189. (R. S. § 1731.) Rates of fees to be posted up.
It shall be the duty of all consular officers at all times to keep posted up in their offices, respectively, in a conspicuous place, and subject to the examination of all persons interested therein, a copy of such rates or tariffs as shall be in force.


§ 3190. (R. S. § 1732.) Excess of fees above $2,500.
Whenever the fees collected by or in behalf of any consul [or commercial agent, not mentioned in Schedule B or C] amount to more than twenty-five hundred dollars in any one year, over and above such expenses of office-rent and clerk-hire as are approved by the Secretary of State, of which return shall be made to the Secretary of the Treasury, the excess for that year shall be held subject to the draft or other directions of the Secretary of the Treasury.


The words of this section, "or commercial agent, not mentioned in Schedule B or C," inclosed in brackets, were superseded by the classification of consular officers and the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1890, c. 1306, §§ 2, 3, ante, §§ 3138, 3139.

Subsequent provisions for accounts of fees were made by section 8 of said act, ante, § 3186.

Similar provisions were made by R. S. § 1747, post, § 3207.

§ 3191. (R. S. § 1733.) Excess of fees above $1,000.
All moneys received for fees at any vice-consulates or consular agencies of the United States, beyond the sum of one thousand dollars in any one year, and all moneys received by any consul or consul-general from consular agencies or vice-consulates in excess of one thousand dollars in the aggregate from all such agencies or vice-consulates, shall be accounted for to the Secretary of the Treasury, and held subject to his draft or other directions.

Act March 30, 1908, c. 38, § 1, 15 Stat. 57.
See note to R. S. § 1732, ante, § 3190.

(1264)
§ 3192. (R. S. § 1734, as amended, Act Dec. 21, 1898, c. 36, § 3.)

Embezzlement.

Every consular officer who willfully neglects to render true and just quarterly accounts and returns of the business of his office, and of moneys received by him for the use of the United States, or who neglects to pay over any balance of said moneys due to the United States at the expiration of any quarter, before the expiration of the next succeeding quarter, or who shall receive money, property, or effects belonging to a citizen of the United States and shall not within a reasonable time after demand made upon him by the Secretary of State or by such citizen, his executor, administrator, or legal representative, account for and pay over all moneys, property, and effects, less his lawful fees, due to such citizen, shall be deemed guilty of embezzlement, and shall be punishable by imprisonment for not more than five years, and by a fine of not more than two thousand dollars.


This section, as enacted in the Revised Statutes, was as follows:

"Every consular officer who willfully neglects to render true and just quarterly accounts and returns of the business of his office, and of moneys received by him for the use of the United States, or who neglects to pay over any balance of such moneys due to the United States at the expiration of any quarter, before the expiration of the next succeeding quarter, shall be deemed guilty of embezzlement of the public moneys, and shall be punishable by imprisonment for not more than one year and by a fine of not more than two thousand dollars, and shall be forever disqualified from holding any office of trust or profit under the United States."

It was amended to read as set forth here by Act December 21, 1898, c. 36, § 3, last cited above.

It was amended by inserting, after the words, "the next succeeding quarter," the words "or who shall receive money, property, or effects belonging to a citizen of the United States and shall not within a reasonable time after demand made upon him by the Secretary of State or by such citizen, his executor, administrator, or legal representative, account for and pay over all moneys, property, and effects, less his lawful fees, due to such citizen"; by omitting, after the word "embezzlement," the words "of the public moneys"; by making the term of imprisonment five years instead of one year; and by omitting the words at the end of the section, "and shall be forever disqualified from holding any office of trust or profit under the United States," making the section read as set forth here, by Act Dec. 21, 1898, c. 36, § 3, last cited above.

The provisions of this section and of R. S. §§ 1735, 1736, were made to apply to the inspectors of consulates, designated as consuls-general at large, by a provision of the Consular Reorganization Act of April 5, 1906, c. 1300, § 4, ante, § 3141.

Further provisions, declaring guilty of embezzlement and making punishable every consular officer who accepts any appointment from a foreign state as administrator, guardian, etc., without giving bond, or who fails to account for, etc., any money, property, etc., received in such capacity, were made by Act June 30, 1902, c. 1331, § 2, ante, § 3166.

General provisions relating to embezzlement by officers were made by Crim. Code, § 90, post, § 10258.

§ 3193. (R. S. § 1735.) Neglect of duty, etc.

Whenever any consular officer willfully neglects or omits to perform seasonably any duty imposed upon him by law, or by any order or instruction made or given in pursuance of law, or is guilty of any willful malfeasance or abuse of power, or of any corrupt conduct in
his office, he shall be liable to all persons injured by any such neglect, or omission, malfeasance, abuse, or corrupt conduct, for all damages occasioned thereby; and for all such damages, he and his sureties upon his official bond shall be responsible thereon to the full amount of the penalty thereof, to be sued in the name of the United States for the use of the person injured. Such suit, however, shall in no case prejudice, but shall be held in entire subordination to the interests, claims, and demands of the United States, as against any officer, under such bond, for every willful act of malfeasance or corrupt conduct in his office.

Act Aug. 18, 1856, c. 127, § 32, 11 Stat. 64.
Subsequent provisions for suit in case of breach of bond were made by amendment of R. S. § 1697, by Act Dec. 21, 1898, c. 36, § 1, ante, § 3149.
See notes to preceding section.

§ 3194. (R. S. § 1736.) Neglect of duty to seamen; corrupt conduct.

If any consul [or commercial agent] neglects or omits to perform, seasonably, the duties imposed upon him by the laws regulating the shipment and discharge of seamen, and the reclamation of deserters on board or from vessels in foreign ports, or is guilty of any malversation or abuse of power, he shall be liable to any injured person for all damage occasioned thereby; and for all malversation and corrupt conduct in office, he shall be punishable by imprisonment for not more than five years and not less than one, and by a fine of not more than ten thousand dollars and not less than one thousand.

Act July 20, 1840, c. 48, par. 18, 5 Stat. 297.
The words of this section "or commercial agent," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1906, c. 1366, § 3, ante, § 3140.
The duties of consular officers in regard to shipment and discharge, etc., of seamen, were prescribed by R. S. §§ 4577, 4578, 4580, 4581, post, §§ 8366, 8369, 8371, 8372, and in regard to reclamation and discharge of deserters, by R. S. § 4600, post, § 8392.
See notes to R. S. § 1734, ante, § 3192.

§ 3195. (R. S. § 1737.) False certificate of property.

If any consul, vice-consul, [commercial agent, or vice-commercial agent] falsely and knowingly certifies that property belonging to foreigners is property belonging to citizens of the United States, he shall be punishable by imprisonment for not more than three years and by a fine of not more than ten thousand dollars.

Act Feb. 28, 1803, c. 9, § 7, 2 Stat. 204.
The words of this section "commercial agent, or vice-commercial agent," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1906, c. 1366, § 3, ante, § 3140.
False certification of invoice, or other paper, by a consular officer, was punishable by Crim. Code, § 70, post, § 10238.

§ 3196. (R. S. § 1738.) When consular officers may perform diplomatic functions.

No consular officer shall exercise diplomatic functions, or hold any diplomatic correspondence or relation on the part of the United States, in, with, or to the government or country to which he is ap-
pointed, or any other country or government, when there is in such country any officer of the United States authorized to perform diplomatic functions therein; nor in any case, unless expressly authorized by the President so to do.

Act Aug. 18, 1866, c. 127, § 12, 11 Stat. 56.
Carrying on correspondence with any foreign government with intent to influence its measures or conduct in relation to any dispute or controversies with the United States, or to defeat the measures of the Government of the United States, was punishable, by R. S. § 6395, incorporated in Crim. Code, § 5, post, § 10169.

§ 3197. (R. S. § 1739.) Compensation of consular officer performing diplomatic functions.

For such time as any consular officer shall be authorized to perform diplomatic functions, in the absence of the regular diplomatic officer in the country to which he shall be appointed, he shall be entitled, in addition to his compensation as such consular officer, to receive compensation for his services while so authorized, at the rate which would be allowed for a secretary of legation in such country.

Act Aug. 18, 1866, c. 127, § 11, 11 Stat. 56.
Marriages in presence of a consular officer in a foreign country were authorized, and certificates thereof were provided for, by R. S. § 4082, post, § 7632.

CHAPTER THREE

Provisions Common to Diplomatic and Consular Officers

§ 3198. (R. S. § 1740.) Term during which salary is payable.

No ambassador, envoy extraordinary, minister plenipotentiary, minister resident, commissioner, chargé d'affaires, secretary of legation, assistant secretary of legation, interpreter to any legation or consulate, or consul-general, consul, [or commercial agent, mentioned in Schedules B and C,] shall be entitled to compensation for his services, except from the time when he reaches his post and enters upon his official duties to the time when he ceases to hold such office, and for such time as is actually and necessarily occupied in receiving his instructions, not to exceed thirty days, and in
making the direct transit between the place of his residence, when appointed, and his post of duty, at the commencement and termination of the period of his official service, for which he shall in all cases be allowed and paid, except as hereinafter mentioned. And no person shall be deemed to hold any such office after his successor is appointed and actually enters upon the duties of his office at his post of duty, nor after his official residence at such post has terminated if not so relieved. But no such allowance or payment shall be made to any consul-general, consul, [or commercial agent, not embraced in Schedules B and C,] or to any vice-consul, [vice-commercial agent,] deputy consul, or consular agent, for the time so occupied in receiving instructions, or in such transit as aforesaid; nor shall any such officer as is referred to in this section be allowed compensation for the time so occupied in such transit, at the termination of the period of his official service, if he has resigned or been recalled therefrom for any malfeasance in his office.


The words of this section inclosed in brackets, "or commercial agent, mentioned in Schedules B and C," "or commercial agent, not embraced in Schedules B and C," and "vice-commercial agent," were superseded by the classification of consular officers and the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1900, c. 1999, §§ 2, 3, ante, §§ 8139, 3140.

The Secretary of State was required to determine the maximum time necessary to make the transit between each diplomatic and consular post and the city of Washington, by Act June 11, 1874, c. 275, § 4, post, § 3201.

The annual appropriation for payment of salaries under the provisions of this section was made by the diplomatic and consular appropriation act for the fiscal year 1914, Act Feb. 28, 1913, c. 88, 37 Stat. 569.

(R. S. § 1741. Superseded.)

The provisions of this section were re-enacted, substantially, by Act June 17, 1874, c. 294, post, § 3199.

See notes to said act, post, § 3199.

§ 3199. (Act June 17, 1874, c. 294.) Absence from post or duty without leave; correspondence with private persons on public affairs; recommendation of persons for employment; acceptance of presents, etc.

No Ambassador, Envoy Extraordinary, Minister Plenipotentiary, Minister Resident, Commissioner to any foreign country, chargé d'affaires, Secretary of Legation, Assistant Secretary of Legation, Interpreter to any legation in any foreign country, Consul General, Consul, [Commercial Agent,] consular pupils, or consular agent shall be absent from his post or the performance of his duties for a longer period than ten days at any one time, without the permission previously obtained of the President. And no compensation shall be allowed for the time of any such absence in any case except in cases of sickness; nor shall any diplomatic or consular officer correspond in regard to the public affairs of any foreign government with any private person, newspaper, or other periodical, or otherwise than with the proper officers of the United States; nor without the consent of the Secretary of State previously obtained, recommend any person at home or abroad for any employ-
ment of trust or profit under the Government of the country in which he is located; nor ask or accept, for himself or any other person, any present, emolument, pecuniary favor, office, or title of any kind from any such government. (18 Stat. 77.)

This was an act entitled "An act relating to ambassadors, and other officers."

This act re-enacted R. S. §§ 1741, 1751, with a few slight additions.

R. S. § 1741, provided that "No ambassador, envoy-extraordinary, minister-plenipotentiary, minister-resident, commissioner, chargé d'affaires, secretary of legation, assistant secretary of legation, interpreter for any legation or consulate, or consul-general, consul, or commercial agent, mentioned in Schedules B and C, or consular agent, shall be absent from his post, or the performance of his duties, for a longer period than ten days at any one time, without the permission previously obtained of the President."

R. S. § 1751, provided that "no diplomatic or consular officer shall correspond in regard to the public affairs of any foreign government with any private person, newspaper, or other periodical, or otherwise than with the proper officers of the United States, nor recommend any person, at home or abroad, for any employment of trust or profit under the government of the country in which he is located; nor ask or accept, for himself or any other person, any present, emolument, pecuniary favor, office, or title of any kind, from any such government."

Carrying on correspondence with any foreign government with intent to influence its measures or conduct in relation to any dispute or controversies with the United States, or to defeat the measures of the Government of the United States, was punishable, by R. S. § 5335, incorporated into Crim. Code, § 5, post. § 10269.

The words of this section, "Commercial Agent," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1906, c. 1306, § 3, ante, § 3140.

§ 3200. (R. S. § 1742.) Salary in case of absence.

No diplomatic or consular officer shall receive salary for the time during which he may be absent from his post, by leave or otherwise, beyond the term of sixty days in any one year; but the time equal to that usually occupied in going to and from the United States in case of the return, on leave, of such diplomatic or consular officer to the United States may be allowed in addition to such sixty days.


The Secretary of State was required to determine the maximum time necessary to make the transit between each diplomatic and consular post and the city of Washington, by Act June 11, 1874, c. 275, § 4, post, § 3201.

§ 3201. (Act June 11, 1874, c. 275, § 4.) Time of transit allowed to diplomatic and consular officers.

The Secretary of State shall, as soon as practicable, establish and determine the maximum amount of time actually necessary to make the transit between each diplomatic and consular post and the city of Washington, and vice versa, and shall make the same public. He may also, from time to time, revise his decision in this respect; but in each case the decision is to be in like manner made public. And the allowance for time actually and necessarily occupied by each diplomatic and consular officer who may be entitled to such allowance shall in no case exceed that for the time thus established and determined, with the addition of the time usually occupied by the shortest and most direct mode of conveyance from Washington (1269)
§ 3201 DIPLOMATIC OFFICERS (Tit. 18)

to the place of residence in the United States of such officer. (18 Stat. 70.)

This section was a part of the diplomatic and consular appropriation act for the fiscal year 1875, cited above.

§ 3202. (R. S. § 1743.) Extra compensation prohibited.
The compensation allowed by law to the various diplomatic and consular officers shall be in full for all the services rendered and personal expenses incurred by the persons respectively for whom such compensation is provided, of whatever kind such services or personal expenses may be, or by whatever treaty, law, or instructions they are required; and no allowance, other than such as is so provided, shall be made in any case for the outfit or return home of any such officer or person.


A subsequent provision that "the sole and only compensation" of consular officers should be "by salaries fixed by law" was made by the Consular Reorganization Act of April 5, 1906, c. 1366, § 8, ante, § 3189.

§ 3203. (R. S. § 1744.) Compensation to citizens only.

No compensation provided for any officer mentioned in section sixteen hundred and seventy-five, or for any assistant secretary of legation, or any appropriation therefor, shall be applicable to the payment of the compensation of any person appointed to or holding any such office who shall not be a citizen of the United States; nor shall any other compensation be allowed in any such case.


R. S. § 1675, mentioned in this section, is set forth ante, § 8117.

The officers mentioned in said section were ambassadors, envoys-extraordinary and ministers-pleni potentiary, ministers-resident and commissioners, chargé d'affaires, and secretaries of legations.

Vice-consuls temporarily acting as consuls were entitled to receive compensation although not citizens of the United States, by Act June 11, 1874, c. 275, § 6, post, § 3204.

§ 3204. (Act June 11, 1874, c. 275, § 6.) Compensation of vice-consuls not citizens.

Any vice-consul who may be temporarily acting as consul during the absence of such consul may receive compensation, notwithstanding that he is not a citizen of the United States. (18 Stat. 70.)

This section was part of the diplomatic and consular appropriation act for the fiscal year 1875, cited above. As that act was passed before the enactment of the Revised Statutes, although it had effect as a subsequent statute, pursuant to R. S. § 5001, post, § 10598, this section apparently had in view the then existing provision of Act Aug. 18, 1856, c. 127, § 21, 11 Stat. 60, that the compensation for officers mentioned in Schedules B and C (the consular officers) should not be paid to persons who were not citizens of the United States. But this provision was omitted from R. S. § 1744, ante, § 3203, in which the remainder of the section was incorporated, and does not appear to have been included elsewhere in the Revised Statutes.

A provision that "The salary of a consular officer not a citizen of the United States shall be paid out of the amount specifically appropriated for salary at the consular office to which the alien officer is attached or appointed," made by the diplomatic and consular appropriation act for the fiscal year 1905, Act March 12, 1904, c. 543, 33 Stat. 78, repeated from the appropriation acts for previous years, was omitted from similar acts for subsequent years.

(1270)
§ 3205. (R. S. § 1745.) President to regulate fees.
The President is authorized to prescribe, from time to time, the rates or tariffs of fees to be charged for official services, and to designate what shall be regarded as official services, besides such as are expressly declared by law, in the business of the several legations, consulates, [and commercial agencies,] and to adapt the same, by such differences as may be necessary or proper, to each legation, consulate, [or commercial agency;] and it shall be the duty of all officers and persons connected with such legations, consulates, [or commercial agencies] to collect for such official services such and only such fees as may be prescribed for their respective legations, consulates, [and commercial agencies,] and such rates or tariffs shall be reported annually to Congress.

The words of this section, "and commercial agencies," "or commercial agency," "or commercial agencies," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganization Act of April 5, 1906, c. 1366, § 5, ante, § 3146.

Fees for consular certification of invoices were included with the fees for which the President was authorized to prescribe rates or tariffs by this section, by said Consular Reorganization Act of April 5, 1906, c. 1366, § 9, ante, § 3157.
The fees named in the tariff of consular fees prescribed by order of the President were not to be charged or collected by consular officers for their official services to American vessels and seamen by Act June 26, 1883, c. 121, § 12, ante, § 3176.

Provisions relating to fees and compensation of consular officers only were made by R. S. §§ 1716, 1719, 1722–1728, 1731–1733, ante, §§ 3172, 3177–3184, 3189–3191, and by the Consular Reorganization Act of April 5, 1906, c. 1366, §§ 7–10, ante, §§ 3185–3189.
The president was requested to revise the tariff of consular fees and prescribe such rates as would make them conform, as nearly as may be, to the fees charged by other commercial nations for similar service, by a provision of Act Jan. 27, 1879, c. 28, 20 Stat. 273. It is omitted, as temporary merely.

§ 3206. (R. S. § 1746.) Fees to be collected in coin.
All fees collected by diplomatic and consular officers for and in behalf of the United States shall be collected in the coin of the United States, or at its representative value in exchange.

A provision that in the collection of official fees consular officers in the Dominion of Canada should receive foreign moneys at the rate given in the Treasury schedules of the value of foreign coins was made by R. S. § 1722, ante, § 3178.

§ 3207. (R. S. § 1747.) Officers to account for fees.
All fees collected by the consuls general, consuls, [and commercial agents mentioned in Schedules B and C,] and by vice-consuls [and vice-commercial agents] appointed to perform their duties, or by any other persons in their behalf, shall be accounted for to the Secretary of the Treasury, and held subject to his draft, or other directions.

The words of this section, "and commercial agents mentioned in Schedules B and C," and "vice-commercial agents," inclosed in brackets, were superseded by the classification of consular officers and the abolition of the grade of com-
§ 3207. DIPLOMATIC OFFICERS

Commercial agent by the Consular Reorganisation Act of April 5, 1906, c. 1305, §§ 2, 3, ante, §§ 3130, 3140.

A similar provision relating to fees at legations was made by R. S. § 1687, ante, § 3134.

Similar provisions for the disposition of fees by consular officers were made by R. S. §§ 1732, 1733, ante, §§ 3190, 3191.

Returns and accounts of fees by such officers were regulated by R. S. §§ 1724-1728, ante, §§ 3182-3184.

Subsequent provisions requiring all fees collected by certain consular officers to be accounted for and paid into the Treasury were made by the Consular Reorganisation Act of April 5, 1906, c. 1305, § 8, ante, § 3186.

Willful neglect to render accounts and returns of moneys received by consular officers was punishable as embezzlement, by R. S. § 1734, ante, § 3192.

§ 3208. (R. S. § 1748.) Expenses of legations, consulates, etc.
The President is authorized to provide at the public expense all such stationery, blanks, record and other books, seals, presses, flags, and signs, as he shall think necessary for the several legations, consulates, [and commercial agencies] in the transaction of their business.

The words of this section, "and commercial agencies," inclosed in brackets, were superseded by the abolition of the grade of commercial agent by the Consular Reorganisation Act of April 5, 1906, c. 1305, § 3, ante, § 3140.

 Appropriations for contingent expenses of the several embassies and legations, and of the several consulates and consular agencies, are made by the diplomatic and consular appropriation acts for each year. The provisions for the fiscal year 1914 were by Act Feb. 28, 1913, c. 86, 37 Stat. 690, 697.

Besides the provisions made, in said appropriations for contingent expenses, for "traveling and miscellaneous expenses of embassies and legations," and for "traveling expenses of consular officers," further appropriations are made "To pay the cost of the transportation of diplomatic and consular officers in going to and returning from their posts, or when traveling under the orders of the Secretary of State, at the rate of five cents per mile, but not including any expense incurred in connection with leaves of absence." This provision for the fiscal year 1914 was made by Act Feb. 28, 1913, c. 86, 37 Stat. 690.

§ 3209. (Act Feb. 17, 1911, c. 105.) Buildings for use of diplomatic and consular establishments; limitations of expenditure and cost.

That the Secretary of State be, and he is hereby, authorized to acquire in foreign countries such sites and buildings as may be appropriated for by Congress for the use of the diplomatic and consular establishments of the United States, and to alter, repair, and furnish the said buildings; suitable buildings for this purpose to be either purchased or erected, as to the Secretary of State may seem best, and all buildings so acquired for the diplomatic service shall be used both as the residences of diplomatic officials and for the offices of the diplomatic establishment: Provided, however, That not more than the sum of five hundred thousand dollars shall be expended in any fiscal year under the authorization herein made: And provided further, That in submitting estimates of appropriation to the Secretary of the Treasury for transmission to the House of Representatives, the Secretary of State shall set forth a limit of cost for the acquisition of sites and buildings and for the construction, alteration, repair, and furnishing of buildings at each place in which the expenditure is proposed (which limit of cost shall not exceed the sum of one hundred and

(1272)
fifty thousand dollars at any one place) and which limit shall not
thereafter be exceeded in any case, except by new and express au-
thorization of Congress. (36 Stat. 917.)

This was an act entitled "An act providing for the purchase or erection,
within certain limits of cost, of embassy, legation, and consular buildings
abroad."

A provision for estimates by the Secretary of State for rent of and expenses
at consular offices was made by the deficiency appropriation act for the fiscal
year 1905, Act March 3, 1905, c. 1484, § 1, post, § 6894.

§ 3210. (R. S. § 1749.) Allowance to widow of consular officer
deeased in a foreign country.

Whenever any diplomatic or consular officer of the United States
dies in a foreign country in the discharge of his duty, there shall be
paid to his widow, or, if no widow survive him, then to his heirs at
law, a sum of money equal to the allowance now made to such officer
for the time necessarily occupied in making the transit from his post
of duty to his residence in the United States.


Appropriations for payments, under the provisions of this section, to widows
or heirs at law of diplomatic or consular officers dying in foreign countries, are
made by the diplomatic and consular appropriation acts for each year. The
provision for the fiscal year 1914 was by Act Feb. 28, 1913, c. 86, 37 Stat. 691.

Appropriations are also made by those acts for "defraying the expenses of
transporting the remains of diplomatic and consular officers of the United
States, including consular assistants, who have died or may die abroad or in
transit, while in the discharge of their official duties, to their former homes in
this country for interment, and for the ordinary and necessary expenses of such
interment, at their post or at home." The provision for the fiscal year 1914
was by Act Feb. 28, 1913, c. 86, 37 Stat. 691.

§ 3211. (R. S. § 1750.) Depositions; penalty for perjury in such
cases; evidence of taking the oath; penalty for forging cer-
tificate of oath.

Every secretary of legation and consular officer is hereby author-
ized, whenever he is required or deems it necessary or proper so to
do, at the post, port, place, or within the limits of his legation, con-
sulate, [or commercial agency,] to administer to or take from any
person an oath, affirmation, affidavit, or deposition, and to perform
any notarial act which any notary public is required or authorized by
law to do within the United States. Every such oath, affirmation,
affidavit, deposition, and notarial act administered, sworn, affirmed,
taken, had, or done, by or before any such officer, when certified under
his hand and seal of office, shall be as valid, and of like force and
effect within the United States, to all intents and purposes, as if ad-
ministered, sworn, affirmed, taken, had, or done, by or before any
other person within the United States duly authorized and competent
thereto. If any person shall willfully and corruptly commit perjury,
or by any means procure any person to commit perjury in any such
oath, affirmation, affidavit, or deposition, within the intent and mean-
ing of any act of Congress now or hereafter made, such offender may
be charged, proceeded against, tried, convicted, and dealt with in any
district of the United States, in the same manner, in all respects, as
if such offense had been committed in the United States, before any
officer duly authorized therein to administer or take such oath, af-
§ 3211  DIPLOMATIC OFFICERS  (Tit. 18)

firmation, affidavit, or deposition, and shall be subject to the same
punishment and disability therefor as are or shall be prescribed by
any such act for such offense; and any document purporting to have
affixed, impressed, or subscribed thereto or thereon the seal and
signature of the officer administering or taking the same in testi-
mony thereof, shall be admitted in evidence without proof of any such
seal or signature being genuine or of the official character of such
person; and if any person shall forge any such seal or signature, or
shall tender in evidence any such document with a false or counter-
feit seal or signature thereto, knowing the same to be false or coun-
terfeit, he shall be deemed and taken to be guilty of a misdemeanor,
and on conviction shall be imprisoned not exceeding three years nor
less than one year, and fined in a sum not to exceed three thousand
dollars, and may be charged, proceeded against, tried, convicted, and
dealt with, therefore, in the district where he may be arrested or in
custody.


The words of this section, "or commercial agency," inclosed in brackets, were
superseded by the abolition of the grade of commercial agent by the Consular
Reorganization Act of April 5, 1906, c. 1396, § 3, ante, § 3140.

Provisions requiring consular officers to perform notarial acts, and to charge
fees therefor, were made by section 7 of said act, ante, § 3155.

The certificate of acknowledgment of assignments, grants, or conveyances of
patents before any secretary of legation or consular officer authorized by this
section to administer oaths or perform notarial acts was made prima facie
evidence of the execution of such assignments, grants, or conveyances, by R. S.
§ 4808, as amended by Act March 3, 1897, c. 391, § 5, post, § 9444.

(R. S. § 1751. Superseded.)

The provisions of this section were re-enacted, substantially, by Act June
17, 1874, c. 294, ante, § 3198. See note to that act.

§ 3212. (R. S. § 1752.)  Regulations.

The President is authorized to prescribe such regulations, and make
and issue such orders and instructions, not inconsistent with the
Constitution or any law of the United States, in relation to the duties
of all diplomatic and consular officers, the transaction of their busi-
ness, the rendering of accounts and returns, the payment of compen-
sation, the safe keeping of the archives and public property in the
hands of all such officers, the communication of information, and the
procurement and transmission of the products of the arts, sciences,
manufactures, agriculture, and commerce, from time to time, as he
may think conducive to the public interest. It shall be the duty of
all such officers to conform to such regulations, orders, and instruc-
tions.


(1274)
TITLE XIX

PROVISIONS APPLICABLE TO SEVERAL CLASSES OF PUBLIC OFFICERS AND EMPLOYÉS

This Title, as enacted in the Revised Statutes, was not divided into chapters. The provisions contained in it were applicable generally to all officers and employees of the government, or at least to those in more than one Department or branch of the public service. The Civil Service Act of Jan. 16, 1883, c. 27, 22 Stat. 463, established the Civil Service Commission and created a classified civil service, subject to provisions, rules, etc., governing appointments, promotions, etc., upon examinations, in such classified service only. For convenience, the sections of this original Title in the Revised Statutes remaining in force and subsequent provisions of general application to public officers and employees are placed in Chapter A; and the provisions of said Civil Service Act of 1883 remaining in force and subsequent provisions applicable only to the Civil Service Commission and the classified civil service are placed in Chapter B.

Chap. Sec.
A. Appointment, Qualification, Compensation, and Services, in General.. 3213
B. Civil Service Commission and Classified Civil Service................. 3271

CHAPTER A

Appointment, Qualification, Compensation, and Services, in General

Sec. 3213. President to regulate admissions to the civil service.
3214. Preference of persons disabled in military or naval service.
3215. Recommendation for employment of such persons.
3216. Form of oath of office; repeal of R. S. § 1796, and effect thereof.
3217. Effect of act on existing rights, etc.
3218. Oath for certain persons.
3219. Disability imposed by Fourteenth Amendment to the Constitution removed.
3220. Who may administer oath.
3221. Oaths of office to employees to be administered without compensation.
3222. Chief clerks of Departments, etc., to administer oaths of office, without compensation therefor.
3223. Custody of oath.
3224. Unauthorized office, no salary for.
3225. Unauthorized employment of clerks, etc.
3226. Detective agency employees not to be employed in government service.
3227. Publicity agents not to be employed unless specific appropriation be made.
3228. No salaries to certain appointees to fill vacancies during recess of Senate.
3229. Salaries to officers under Treasury Department holding over.
3230. Double salaries.
3231. Holding other lucrative office.
3232. Employment of retired officers of Army or Navy on river and harbor improvements.
3233. Extra services.
3234. Extra allowances.
3235. Extra compensation or perquisites.

(1275)
§ 3218. SEVERAL CLASSES OF OFFICERS AND EMPLOYEES (Tit. 19)

§ 3236. Actual traveling expenses only to be allowed.
§ 3237. Restrictions on payment of expenses of horses, carriages, etc., for personal use of officers.
§ 3238. Restrictions on payment of expenses of carriages or vehicles for personal or official use; carriages and vehicles for official purpose to have thereon name of Department, etc.
§ 3239. Officers in arrears.
§ 3240. Withholding pay of officers of Army.
§ 3241. Restrictions on payments of membership fees or dues in societies, etc., or of expenses of attendance at meetings, etc., of societies, etc.
§ 3242. Restrictions not to be construed to prohibit payment of certain expenses of employees of Department of Agriculture.
§ 3243. Annual or monthly compensation; rules for division of time and computation of pay.
§ 3244. Holidays allowed to per diem employees.
§ 3245. Holidays allowed to per diem employees; Memorial Day and Fourth of July.
§ 3246. Holidays; Labor Day.
§ 3247. Leaves of absence; officers and employees who are members of National Guard.
§ 3248. Leaves of absence; employees of navy yards, gun factories, naval stations, and arsenals.
§ 3249. Commissions.
§ 3250. Commissions of officers under Secretaries of certain Departments.
§ 3251. Commissions of officers under Secretary of the Interior.
§ 3252. Commissions of judicial officers and other officers under Attorney-General.

§ 3213. (R. S. § 1753.) President to regulate admissions to the civil service.

The President is authorized to prescribe such regulations for the admission of persons into the civil service of the United States as may best promote the efficiency thereof, and ascertain the fitness of each candidate in respect to age, health, character, knowledge, and ability for the branch of service into which he seeks to enter; and for this purpose he may employ suitable persons to conduct such inquiries, and may prescribe their duties, and establish regulations for (1276)
the conduct of persons who may receive appointments in the civil service.

Act March 8, 1871, c. 114, § 9, 16 Stat. 514.

The authority conferred upon the President by this section was not taken away by the Civil Service Act of Jan. 16, 1883, c. 27, post, §§ 3271–3282, except in so far as it was inconsistent with the provisions of that act, by a provision of section 7 thereof, post, § 3273.

§ 3214. (R. S. § 1754.) Preference of persons disabled in military or naval service.

Persons honorably discharged from the military or naval service by reason of disability resulting from wounds or sickness incurred in the line of duty, shall be preferred for appointments to civil offices, provided they are found to possess the business capacity necessary for the proper discharge of the duties of such offices.

Res. March 3, 1865, No. 27, § 1, 13 Stat. 571.

The preference conferred by this section was not taken away by the Civil Service Act of Jan. 16, 1883, c. 27, post, §§ 3271–3282, by a provision of section 7 thereof, post, § 3278.

The heads of the executive departments, in making any reduction of their clerical force, were required to retain persons equally qualified, who had been honorably discharged from the military or naval service, and the widows and orphans of deceased soldiers and sailors, by a provision of Act Aug. 15, 1876, c. 287, § 3, ante, § 245.

§ 3215. (R. S. § 1755.) Recommendation for employment of such persons.

In grateful recognition of the services, sacrifices, and sufferings of persons honorably discharged from the military and naval service of the country, by reason of wounds, disease, or the expiration of terms of enlistment, it is respectfully recommended to bankers, merchants, manufacturers, mechanics, farmers, and persons engaged in industrial pursuits, to give them the preference for appointments to remunerative situations and employments.


(R. S. § 1756. Repealed.)

This section was as follows:

"Every person elected or appointed to any office of honor or profit, either in the civil, military, or naval service, excepting the President and the persons embraced by the section following, shall, before entering upon the duties of such office, and before being entitled to any part of the salary or other emoluments thereof, take and subscribe the following oath: 'I, A B, do solemnly swear (or affirm) that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought, nor accepted, nor attempted to exercise the functions of any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto; and I do further swear (or affirm) that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.'"

It was repealed by Act May 13, 1884, c. 46, § 2, post, § 3216.

(1277)
§ 3216. (Act May 13, 1884, c. 46, § 2.) Form of oath of office; repeal of R. S. § 1756, and effect thereof.

Section seventeen hundred and fifty-six of the Revised Statutes be, and the same is hereby, repealed; and hereafter the oath to be taken by any person elected or appointed to any office of honor or profit either in the civil, military, or naval service, except the President of the United States, shall be as prescribed in section seventeen hundred and fifty-seven of the Revised Statutes. But this repeal shall not affect the oaths prescribed by existing statutes in relation to the performance of duties in special or particular subordinate offices and employments. (23 Stat. 22.)

This section and the section next following were sections 2 and 3 of an act entitled "An act amending the Revised Statutes of the United States in respect of official oaths, and for other purposes."

Section 1 of this act amended R. S. § 1218; but said section 1218 was repealed by Act March 31, 1896, c. 84, 29 Stat. 84. See note to said section.

Section 4 of this act repealed R. S. §§ 820, 821.

§ 3217. (Act May 13, 1884, c. 46, § 3.) Effect of act on existing rights, etc.

The provisions of this act shall in no manner affect any right, duty, claim, obligation, or penalty now existing or already incurred; and all and every such right, duty, claim, obligation, and penalty shall be heard, tried, and determined, and effect shall be given thereto, in the same manner as if this act had not been passed. (23 Stat. 22.)

See notes to preceding section.

§ 3218. (R. S. § 1757.) Oath for certain persons.

Whenever any person who is not rendered ineligible to office by the provisions of the fourteenth amendment to the Constitution is elected or appointed to any office of honor or trust under the Government of the United States, and is not able, on account of his participation in the late rebellion, to take the oath prescribed in the preceding section, he shall, before entering upon the duties of his office, take and subscribe in lieu of that oath the following oath: "I, A B, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."


This oath was to be taken by any person elected or appointed to any office of honor or profit in the civil, military, or naval service, except the President, by Act May 13, 1884, c. 46, § 2, ante, § 3216.

The disability imposed by the provisions of the fourteenth amendment to the Constitution, referred to in this section, was removed by Act June 6, 1898, c. 389, post, § 3219.

The oath of allegiance, and to support the Constitution of the United States, as required of persons in the civil service, was required of persons prosecuting claims before any of the Departments or Bureaus of the United States, by R. S. § 3478, post, § 6385.

(1278)
§ 3219. (Act June 6, 1898, c. 389.) Disability imposed by the Fourteenth Amendment to the Constitution removed.
The disability imposed by section three of the Fourteenth Amendment to the Constitution of the United States heretofore incurred is hereby removed. (30 Stat. 432.)

This was an act entitled "An act to remove the disability imposed by section 3 of the Fourteenth Amendment to the Constitution of the United States."

Section 3 of the Fourteenth Amendment to the Constitution, referred to in this act, provided that no person should be a Senator, Representative, or hold any office, etc., who, having previously taken an oath, as a member of Congress or as an officer of the United States, etc., to support the Constitution of the United States, had engaged in insurrection or rebellion against the same, etc.

§ 3220. (R. S. § 1758.) Who may administer oath.
The oath of office required by either of the two preceding sections may be taken before any officer who is authorized either by the laws of the United States, or by the local municipal law, to administer oaths, in the State, Territory, or District where such oath may be administered.

Act Aug. 6, 1861, c. 64, § 2, 12 Stat. 326.

The two preceding sections of the Revised Statutes, mentioned in this section, were R. S. §§ 1756, 1757. Section 1756 was repealed, and the oath prescribed by section 1757 was to be taken by any person elected or appointed to any office, except the President, by Act May 13, 1894, c. 46, § 2, ante, § 3216.

Officers, clerks, or other employees of any executive department who are also notaries public, or otherwise authorized to administer oaths, were not to charge or receive any fee for administering oaths of office to other employees, by a provision of Act Aug. 29, 1890, c. 820, § 1, post, § 3221.

The magistrates or other officers who may administer the oath of office to inspectors and other officers of the customs service were put: the President R. S. § 2617, and by a provision of Act Feb. 8, 1875, c. 36, § 11, post, §§ 5351, 5363.

§ 3221. (Act Aug. 29, 1890, c. 820.) Oaths of office to employees to be administered without compensation.

No officer, clerk, or employee of any executive department who is also a notary public or other officer authorized to administer oaths, shall charge or receive any fee or compensation for administering oaths of office to employees of such department required to be taken on appointment or promotion therein. (26 Stat. 371.)

This was a provision, accompanying appropriations for the Auditors' Offices in the Treasury Department, in an act making appropriations for additional clerical force, etc., cited above.

Administration of oaths to expense accounts against the United States, without compensation therefor, was provided for by Act Aug. 24, 1912, c. 355, § 8, post, § 3262.

§ 3222. (Act Aug. 29, 1890, c. 820.) Chief clerks of Departments, etc., to administer oaths of office, without compensation therefor.
The Chief Clerks of the several Executive Departments and of the various bureaus and offices thereof in Washington, District of Columbia, are hereby authorized and directed, on application and without compensation therefor, to administer oaths of office.
§ 3222. SEVERAL CLASSES OF OFFICERS AND EMPLOYEES (Tit. 19)

to employees required to be taken on their appointment or promotion. (26 Stat. 371.)

This was a further provision of the act making appropriations for additional clerical force, etc., cited above.

§ 3223. (R. S. § 1759.) Custody of oath.

The oath of office taken by any person pursuant to the requirements of section seventeen hundred and fifty-six, or of section seventeen hundred and fifty-seven, shall be delivered in his behalf to be preserved among the files of the House of Congress, Department, or court to which the office in respect to which the oath is made may appertain.


The words of this section, inserted in brackets, "of section seventeen hundred and fifty-six, or," were superseded by the repeal of said section 1756, with the further provision that oaths of office should be as prescribed by R. S. § 1757, by Act May 13, 1884, c. 46, § 2, ante, § 3216.

The oaths of subordinate officers of the customs were required to be taken in duplicate, and one copy to be transmitted to the Commissioner of Customs, and the other to be filed with the collector of customs for the district in which the officer appointed acts, by Act Feb. 8, 1875, c. 36, § 11, post, § 3228. After the abolition of the office of Commissioner of Customs by the Dockery Act of July 31, 1894, c. 174, § 4, ante, § 404, the copy of the oath previously required to be filed with said officer was required to be filed with the Secretary of the Treasury, by Act March 2, 1895, c. 177, § 5, post, § 5334.

Other provisions of Act March 2, 1895, c. 177, § 5, relating to the custody of bonds of various officers, are set forth post, § 3296. And still further provisions of the same section, for the examination, renewal, etc., of official bonds, are also set forth post, §§ 3291, 3292.

§ 3224. (R. S. § 1760.) Unauthorized office, no salary for.

No money shall be paid from the Treasury to any person acting or assuming to act as an officer, civil, military, or naval, as salary, in any office when the office is not authorized by some previously existing law, unless such office is subsequently sanctioned by law.

Act Feb. 9, 1863, c. 25, § 2, 12 Stat. 646.

Payments for official or clerical compensation from appropriations for contingent, incidental, or miscellaneous purposes were also forbidden by R. S. § 3982, post, § 6783.

The employment by the executive officers of the Government of any clerk, etc., in the executive departments at Washington or elsewhere, beyond provision made by law, was forbidden by a provision of Act Aug. 15, 1876, c. 287, § 5, post, § 3225.

The officers, clerks, etc., to be employed in the executive departments, were limited to the compensation and number for which specific provision is made by appropriations each year, by Act Aug. 5, 1882, c. 389, § 4, ante, § 249.

§ 3225. (Act Aug. 15, 1876, c. 287, § 5.) Unauthorized employment of clerks, etc.

The executive officers of the Government are hereby prohibited from employing any clerk, agent, engineer, draughtsman messenger watchman, laborer, or other employee, in any of the executive departments in the city of Washington, or elsewhere beyond provision made by law. (19 Stat. 169.)

This section was part of the legislative, executive, and judicial appropriation act for the fiscal year 1877, cited above.

The employment of civil officers, clerks, etc., in any of the Executive Departments, bureaus, or offices at the seat of government, except at such rates (1280)
and in such numbers as may be specifically appropriated for, was forbidden by Act Aug. 5, 1882, c. 359, § 4, ante, § 249.

§ 3226. (Act March 3, 1893, c. 208, § 1.) Detective agency employés not to be employed in government service.

Hereafter no employee of the Pinkerton Detective Agency, or similar agency, shall be employed in any Government service or by any officer of the District of Columbia. (27 Stat. 591.)

This was a provision of the sundry civil appropriation act for the fiscal year 1894, cited above.

A like provision, without the word "hereafter," was contained in the similar appropriation act for the preceding year, Act Aug. 5, 1892, c. 380, 27 Stat. 368.

§ 3227. (Act Oct. 22, 1913, c. 32.) Publicity experts not to be employed unless specific appropriation be made.

No money appropriated by this or any other Act shall be used for the compensation of any publicity expert unless specifically appropriated for that purpose. (38 Stat. 212.)

This was a provision of the urgent deficiency appropriation act for the fiscal year 1913, cited above.

§ 3228. (R. S. § 1761.) No salaries to certain appointees to fill vacancies during recess of Senate.

No money shall be paid from the Treasury, as salary, to any person appointed during the recess of the Senate, to fill a vacancy in any existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until such appointee has been confirmed by the Senate.

Act Feb. 9, 1863, c. 25, § 2, 12 Stat. 646.

(R. S. § 1762. Superseded.)

This section prohibited payment out of any public moneys to or by or for the benefit of any person appointed to or holding office contrary to Rev. St. §§ 1767–1770. Those sections having been repealed by Act March 3, 1897, c. 353, § 1, 24 Stat. 500, the provisions of this section, also, have become inoperative.

§ 3229. (Act March 2, 1895, c. 187, § 1.) Salaries to officers under Treasury Department holding over.

That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay to all officers under the Treasury Department whose terms of office have expired or shall expire before the appointment and qualification of their successors, and who have been performing or shall perform the duties of their respective offices after the date of such expiration, the salary, compensation, fees, or emoluments authorized or provided by law in each case for the respective incumbents of the offices: Provided, That no such payment shall be made for any services rendered by any such officer wrongfully holding after the appointment and qualification of his successor. (28 Stat. 843.)

This was a provision of the deficiency appropriation act for the fiscal year 1895, cited above.

A like provision, applicable only to customs officers, was contained in the similar appropriation act for the preceding year, Act Aug. 23, 1894, c. 307, § 1, 28 Stat. 424.
§ 3230. (R. S. § 1763.) Double salaries.

No person who holds an office, the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars, shall receive compensation for discharging the duties of any other office, unless expressly authorized by law.


The appointment of persons holding an office, such as is described in this section, to any other office to which compensation is attached, was restricted by provisions of Act July 31, 1894, c. 174, § 2, and Act June 3, 1896, c. 314, § 1, post, §§ 3231, 3232.

Compensation to officers, clerks, etc., for extra services, and other additional pay, or extra allowances or compensation, were restricted by R. S. §§ 1764, 1765, and subsequent provisions, post, §§ 3233-3238.

The recent sundry civil appropriation acts contain a provision "that all sums appropriated by this act for salaries of officers and employees of the Government shall be in full for such salaries for the fiscal year." The provision for the fiscal year 1914 was by Act June 23, 1913, c. 3, § 6, 38 Stat. 75.

§ 3231. (Act July 31, 1894, c. 174, § 2.) Holding other lucrative office.

No person who holds an office the salary or annual compensation attached to which amounts to the sum of two thousand five hundred dollars shall be appointed to or hold any other office to which compensation is attached unless specially heretofore or hereafter specially authorized thereto by law; but this shall not apply to retired officers of the Army or Navy whenever they may be elected to public office or whenever the President shall appoint them to office by and with the advice and consent of the Senate. (28 Stat. 205.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1895, cited above.

Other provisions relating to retired officers of the Army or Navy serving in other capacities were made by R. S. §§ 1223, 1260, 1402, and subsequent statutes set forth ante, §§ 1994, 2254, 2652, and by Act June 3, 1896, c. 314, § 7, post, § 3232.

§ 3232. (Act June 3, 1896, c. 314, § 7.) Employment of retired officers of Army or Navy on river and harbor improvements.

Section two of the Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes, approved July thirty-first, eighteen hundred and ninety-four, shall not be so construed as to prevent the employment of any retired officer of the Army or Navy to do work under the direction of the Chief of Engineers of the United States Army in connection with the improvement of rivers and harbors of the United States, or the payment by the proper officer of the Treasury of any amounts agreed upon as compensation for such employment. (29 Stat. 235.)

This was a provision of the river and harbor appropriation act of 1896, cited above.

Act July 31, 1894, c. 174, § 2, mentioned in this provision, is set forth ante, § 3231.

(1282)
§ 3233. (R. S. § 1764.) Extra services.

No allowance or compensation shall be made to any officer or clerk, by reason of the discharge of duties which belong to any other officer or clerk in the same or any other Department; and no allowance or compensation shall be made for any extra services whatever, which any officer or clerk may be required to perform, unless expressly authorized by law.

Compensation to clerks in the Executive Departments for extra services was forbidden by R. S. § 170, ante, § 283.

§ 3234. (R. S. § 1765.) Extra allowances.

No officer in any branch of the public service, or any other person whose salary, pay, or emoluments are fixed by law or regulations, shall receive any additional pay, extra allowance, or compensation, in any form whatever, for the disbursement of public money, or for any other service or duty whatever, unless the same is authorized by law, and the appropriation therefore explicitly states that it is for such additional pay, extra allowance, or compensation.

A provision similar to that of this section was made by Act June 20, 1874, c. 328, § 3, post, § 3235.
Restrictions on the use of money, appropriated by any act, for paying expenses of horses and carriages or drivers therefor, for the personal use of officers, or for purchasing, maintaining, driving, or operating carriages or vehicles, for the personal or official use of any officer or employe of any of the Executive Departments or other Government establishments at Washington, D. C., were imposed by provisions of Act March 18, 1864, c. 710, § 3, and Act Feb. 3, 1905, c. 297, § 4, post, §§ 3237, 3238.
Reports for each fiscal year of expenses of officers or employes of each Executive Department or other government establishment at Washington traveling on official business to points outside the District of Columbia, were required by Act May 22, 1908, c. 166, § 4, ante, § 277.

§ 3235. (Act June 20, 1874, c. 328, § 3.) Extra compensation or perquisites.

No civil officer of the Government shall hereafter receive any compensation or perquisites, directly or indirectly, from the treasury or property of the United States beyond his salary or compensation allowed by law: Provided, That this shall not be construed to prevent the employment and payment by the Department of Justice of district attorneys as now allowed by law for the performance of services not covered by their salaries or fees. (18 Stat. 109.)

This section was part of the legislative, executive, and judicial appropriation act for the fiscal year 1875, cited above.

Salaries, fees, etc., and compensation for extra services of district attorneys, mentioned in the proviso to this section, were provided for by R. S. §§ 824–827, ante, §§ 1375–1381. But district attorneys were to be paid, for their official services, salaries and compensation otherwise provided, by Act May 28, 1896, c. 252, §§ 6, 7, 13–15, ante, §§ 1418, 1419, 1425–1427. And in no case except in the District of Columbia were they to receive fees of office in addition to the salary allowed by law, by a provision of Act March 3, 1905, c. 1483, § 1, ante, § 1435.

(1283)
§ 3236. (Act March 3, 1875, c. 133, § 1.) Actual traveling expenses only to be allowed.

Hereafter only actual travelling expenses shall be allowed to any person holding employment or appointment under the United States, except marshals, district attorneys, and clerks of the courts of the United States and their deputies; and all allowances for mileages and transportation in excess of the amount actually paid, except as above excepted, are hereby declared illegal; and no credit shall be allowed to any of the disbursing-officers of the United States for payment or allowances in violation of this provision. (18 Stat. 452.)

This was a proviso annexed to an appropriation for pay of the Army in the Army appropriation act for the fiscal year 1876, cited above. This proviso superseded a like provision, without the word “hereafter” and the exception, of Act June 16, 1874, c. 285, § 1, 18 Stat. 72. A subsequent provision that this proviso shall not be construed to apply or to have applied to attorneys, marshals, or clerks of courts of the United States, their assistants or deputies, was made by Act Feb. 22, 1875, c. 95, § 7, ante, § 1390.

Officers of the Navy were excepted from the provisions of this paragraph by a provision of Act June 30, 1876, c. 159, § 1, 19 Stat. 65; but officers of the Navy traveling abroad were to receive only their actual and reasonable expenses by provisions of Act Aug. 5, 1882, c. 391, § 1, and Act March 3, 1901, c. 811, ante, §§ 2844, 2845.

Provisions relating to allowance of mileage, etc., to officers of the Army, were made by Act July 24, 1876, c. 220, § 2, Act March 3, 1883, c. 93, § 1, and Act Sept. 19, 1890, c. 907, § 15, ante, §§ 2128–2130.

Provisions relating to allowance of mileage, etc., to the Board of Visitors to the Military and Naval Academies, were made by Act May 28, 1908, c. 214, as amended by Act Aug. 9, 1912, c. 270, ante, § 2252, and Act March 4, 1913, c. 148, ante, § 2756.

§ 3237. (Act March 18, 1904, c. 716, § 3.) Restrictions on payment of expenses of horses, carriages, etc., for personal use of officers.

No part of any money appropriated by this or any other Act shall be available for paying expenses of horses and carriages or drivers therefor for the personal use of any officer provided for by this or any other Act other than the President of the United States, the heads of Executive Departments, and the Secretary to the President: Provided, That this provision shall not apply to officials outside of the District of Columbia in the performance of their public duties. This paragraph shall not take effect until July first, nineteen hundred and four. (33 Stat. 142.)

This was the concluding portion of section 3 of the legislative, executive, and judicial appropriation act for the fiscal year 1905, cited above. A further similar provision, applicable only to officers or employees of the Executive Departments or other Government establishments at Washington, D. C., was made by the similar act for the fiscal year next following, Act Feb. 3, 1906, c. 297, § 4, post, § 3218.

Nothing in this act was to be construed so as to deprive officers of the Army of forage, bedding, shoeing, or shelter for their authorized number of horses, or of any means of transportation or maintenance therefor for which provision is made by the Army appropriation act for the same fiscal year, Act April 23, 1904, c. 1485, 33 Stat. 258, by a provision of that act, repeated in subsequent Army appropriation acts. The provision for the fiscal year 1810, by Act March 3, 1809, c. 252, is set forth ante, § 2124.
§ 3238. (Act Feb. 3, 1905, c. 297, § 4.) Restrictions on payment of expenses of carriages or vehicles for personal or official use; carriages and vehicles for official purposes to have thereon name of Department, etc.

No part of any money appropriated by this or any other Act shall be used for purchasing, maintaining, driving, or operating any carriage or vehicle (other than those for the use of the President of the United States, the heads of the Executive Departments, and the Secretary to the President, and other than those used for transportation of property belonging to or in the custody of the United States), for the personal or official use of any officer or employee of any of the Executive Departments or other Government establishments at Washington, District of Columbia, unless the same shall be specifically authorized by law or provided for in terms by appropriation of money, and all such carriages and vehicles so procured and used for official purposes shall have conspicuously painted thereon at all times the full name of the Executive Department or other branch of the public service to which the same belong and in the service, of which the same are used. (33 Stat. 687.)

This section was part of the legislative, executive, and judicial appropriation act for the fiscal year 1908, cited above.

A previous similar provision of the similar act for the preceding year, Act March 18, 1904, c. 710, § 3, is set forth ante, § 3237.

Nothing in this act or any other act was to be construed so as to deprive officers of the Army of forage, bedding, shoeing, or shelter for their authorized number of horses, or of any means of transportation or maintenance therefor for which provision is made by the Army appropriation act for the same fiscal year, Act March 2, 1905, c. 1307, 33 Stat. 534, by a provision of that act, repeated in subsequent Army appropriation acts. The provision for the fiscal year ending June 30, 1910, by Act March 3, 1909, c. 252, is set forth ante, § 2124.

§ 3239. (R. S. § 1766.) Officers in arrears.

No money shall be paid to any person for his compensation who is in arrears to the United States, until he has accounted for and paid into the Treasury all sums for which he may be liable. In all cases where the pay or salary of any person is withheld in pursuance of this section, the accounting officers of the Treasury, if required to do so by the party, his agent or attorney, shall report forthwith to the Solicitor of the Treasury the balance due; and the Solicitor shall, within sixty days thereafter, order suit to be commenced against such delinquent and his sureties.

The pay of officers of the Army may be withheld under this section on account of an indebtedness admitted or shown by the judgment of a court, but not otherwise, unless upon a special order of the Secretary of War, by a provision of Act July 16, 1892, c. 195, post, § 3240.
Suits against officers are not abated by death, expiration of term, etc., by Act Feb. 8, 1890, c. 121, ante, § 1594.
J udgments against delinquents for public money may be taken at the return term, by R. S. § 597, ante, § 1596.

3240. (Act July 16, 1892, c. 195, § 1.) Withholding pay of officers of Army.
The pay of officers of the Army may be withheld under section
seventeen hundred and sixty-six of the Revised Statutes on account of an indebtedness to the United States admitted or shown by the judgment of a court, but not otherwise unless upon a special order issued according to the discretion of the Secretary of War. (27 Stat. 177.)

This was a provision of the Army appropriation act for the fiscal year ending 1883, cited above.

(R. S. §§ 1767-1772. Repealed.)

These sections related to the tenure of office under appointments by and with the advice and consent of the Senate, the authority of the President to suspend officers so appointed and to fill vacancies, and the performance of the duties of officers in abeyance for lack of any appointment thereto, and made punishable accepting, holding, or exercising any office, etc., and removing, appointing, or commissioning any officer, contrary to these provisions; incorporating provisions of Act March 2, 1867, c. 154, §§ 1-6, 14 Stat. 430, and Act April 5, 1899, c. 10, §§ 1-3, 16 Stat. 6. They were repealed by Act March 3, 1887, c. 353, § 1, 24 Stat. 500.

§ 3241. (Act June 26, 1912, c. 182, § 8.) Restrictions on payment of membership fees or dues in societies, etc., or of expenses of attendance at meetings, etc., of societies, etc.

No money appropriated by this or any other Act shall be expended for membership fees or dues of any officer or employee of the United States or of the district of Columbia in any society or association or for expenses of attendance of any person at any meeting or convention of members of any society or association, unless such fees, dues, or expenses are authorized to be paid by specific appropriations for such purposes or are provided for in express terms in some general appropriation. (37 Stat. 184.)

This section was part of the District of Columbia appropriation act for the fiscal year 1913, cited above.

This section was not to take effect or be operative during the fiscal years 1913 and 1914, except to the extent that it prohibited payment of membership fees or dues in societies, etc., but expenses of attendance of officers, etc., at meetings, etc., of societies were to be incurred only on written authority, as prescribed and detailed statements of such expenses were required to be submitted to Congress, by provisions of the sundry civil appropriation acts for those years, Act Aug. 24, 1912, c. 355, § 10, 37 Stat. 450, and Act June 22, 1913, c. 3, § 7, 38 Stat. 75.

This section was not to apply to the appropriations provided by the postal service appropriation act for the fiscal year 1913, by section 13 of that act, Act Aug. 24, 1912, c. 355, § 13, 37 Stat. 500.

This act was not to be construed as to prohibit payment from appropriations for the Department of Agriculture of expenses incidental to delivery of lectures, etc., on subjects relating to the work of the Department, by a provision of Act March 4, 1913, c. 145, post, § 3242.

§ 3242. (Act March 4, 1913, c. 145.) Restrictions not to be construed to prohibit payment of certain expenses of employés of Department of Agriculture.

That nothing contained in the Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes, approved June twenty-sixth, nineteen hundred and twelve, shall be so construed as to prohibit the payment from the appropriations for the Department of Agriculture

(1286)
SEVERAL CLASSES OF OFFICERS AND EMPLOYEES  § 3243

of expenses incidental to the delivery of lectures, the giving of instruction, or the acquiring of information at meetings by its employees on subjects relating to the work of the department authorized by law. (37 Stat. 854.)

This was a provision of the agricultural appropriation act for the fiscal year 1914, cited above.

Act June 26, 1912, c. 182, § 8, mentioned in this provision, is set forth ante, § 3241.

§ 3243. (Act June 30, 1906, c. 3914, § 6.) Annual or monthly compensation; rules for division of time and computation of pay.

Hereafter, where the compensation of any person in the service of the United States is annual or monthly the following rules for division of time and computation of pay for services rendered are hereby established: Annual compensation shall be divided into twelve equal installments, one of which shall be the pay for each calendar month; and in making payments for a fractional part of a month one-thirtieth of one of such installments, or of a monthly compensation, shall be the daily rate of pay. For the purpose of computing such compensation and for computing time for services rendered during a fractional part of a month in connection with annual or monthly compensation, each and every month shall be held to consist of thirty days, without regard to the actual number of days in any calendar month, thus excluding the thirty-first of any calendar month from the computation and treating February as if it actually had thirty days. Any person entering the service of the United States during a thirty-one day month and serving until the end thereof shall be entitled to pay for that month from the date of entry to the thirtieth day of said month, both days inclusive; and any person entering said service during the month of February and serving until the end thereof shall be entitled to one month's pay, less as many thirtieths thereof as there were days elapsed prior to date of entry: Provided, That for one day's unauthorized absence on the thirty-first day of any calendar month one day's pay shall be forfeited. (34 Stat. 763.)

This section was part of the sundry civil appropriation act for the fiscal year 1907, cited above.

A previous similar but less specific provision relating to the same subject, made by Act April 28, 1894, c. 1762, § 4, 33 Stat. 513, may be regarded as superseded by this section.

Similar rules for computation of the compensation of any person in the military service of the United States were prescribed by a provision of Act June 12, 1906, c. 3078, ante, § 2117.

Rules similar to some extent for computation of the salary or compensation of persons in the postal service were prescribed by Act March 4, 1911, c. 241, § 4, post, § 7240.

The pay of surfmen in the Life-Saving Service was to be computed according to the number of days in each month and not at as required by this section, by a provision of Act May 27, 1908, c. 200, § 1, post, § 8537.

Provisions for the apportionment of the compensation of customs officers for part of a year's service were made applicable to all officers, agents, and employees of the United States by R. S. § 2887, post, § 5394.

The recent legislative, executive, and judicial appropriation acts prescribe annual rates of pay of certain classes of employees specified, provided for in each act, in the same language, repeated from year to year. The provision for

(1287)
§ 3243 SEVERAL CLASSES OF OFFICERS AND EMPLOYÉS (Tit. 19)

the fiscal year 1914, by Act March 4, 1913, c. 142, § 2, 37 Stat. 790, was as follows:

"The pay of telephone-switchboard operators, assistant messengers, firemen, watchmen, laborers, and charwomen provided for in this Act, except those employed in mints and assay offices, unless otherwise specially stated, shall be as follows: For telephone-switchboard operators, assistant messengers, firemen, and watchmen, at the rate of $720 per annum each; for laborers, at the rate of $800 per annum each; assistant telephone-switchboard operators, at the rate of $600 each, and for charwomen, at the rate of $400 per annum each."

§ 3244. (Res. Jan. 6, 1885, No. 5.) Holidays allowed to per diem employéés.

The employees of the Navy Yard, Government Printing Office, Bureau of Printing and Engraving, and all other per diem employees of the Government on duty at Washington, or elsewhere in the United States, shall be allowed the following holidays, to wit: The first day of January, the twenty-second day of February, the fourth day of July, the twenty-fifth day of December, and such days as may be designated by the President as days for national thanksgiving, and shall receive the same pay as on other days. (23 Stat. 516.)

This was a joint resolution entitled "Joint resolution providing for the payment of laborers in Government employ for certain holidays."

A subsequent provision for the allowance of "Memorial Day" as a holiday was made by Res. Feb. 23, 1887, No. 6, post, § 3245.

Labor Day was made a legal public holiday, by Act June 28, 1894, c. 118, post, § 3246.

§ 3245. (Res. Feb. 23, 1887, No. 6.) Holidays allowed to per diem employéés; Memorial Day and Fourth of July.

All per diem employees of the Government, on duty at Washington or elsewhere in the United States, shall be allowed the day of each year, which is celebrated as "Memorial" or "Decoration Day" and the fourth of July of each year, as holiday, and shall receive the same pay as on other days. (24 Stat. 644.)

This was a joint resolution entitled "Joint resolution providing for the payment of per diem laborers in Government employ on 'Memorial' or 'Decoration Day,' and the fourth of July of each year, as on other days."

A previous provision for allowance of holidays was made by Res. Jan. 6, 1885, No. 5, ante, § 3244.

§ 3246. (Act June 28, 1894, c. 118.) Holidays; Labor Day.

The first Monday of September in each year, being the day celebrated and known as Labor's Holiday, is hereby made a legal public holiday, to all intents and purposes, in the same manner as Christmas, the first day of January, the twenty-second day of February, the thirtieth day of May, and the fourth day of July are now made by law public holidays. (28 Stat. 96.)

This was an act entitled "An act making Labor Day a legal holiday."

§ 3247. (Act March 1, 1889, c. 328, § 49.) Leaves of absence; officers and employéés who are members of National Guard.

All officers and employees of the United States and of the District of Columbia who are members of the National Guard shall be entitled to leave of absence from their respective duties, without

(1288)
loss of pay or time, on all days of any parade or encampment ordered or authorized under the provisions of this act. (25 Stat. 779.)

This section was part of an act providing for the organization of the militia of the District of Columbia, cited above.

§ 3248. (Act Feb. 1, 1901, c. 190.) Leaves of absence; employés of navy yards, gun factories, naval stations, and arsenals.

That each and every employee of the navy-yards, gun factories, naval stations, and arsenals of the United States Government be, and is hereby, granted fifteen working days' leave of absence each year without forfeiture of pay during such leave: Provided, That it shall be lawful to allow pro rata leave only to those serving twelve consecutive months or more: And provided further, That in all cases the heads of divisions shall have discretion as to the time when the leave can best be allowed without detriment to the service, and that absence on account of sickness shall be deducted from the leave hereby granted. (31 Stat. 746.)

This was an act entitled "An act providing for leaves of absence to certain employés of the Government."

The application of the provisions of this act to per diem employés of the clerical, drafting, inspection, and messenger force at navy yards and naval stations was superseded by more comprehensive provisions, as to such employés, of Act March 3, 1898, c. 255, ante, § 2794.

Special provisions as to allowance of leaves of absence to clerks and other employés in other particular branches of the public service were as follows:

Clerks and employés in the Executive Departments, Act March 3, 1893, c. 211, § 5, amended by Act March 15, 1898, c. 68, § 7; Act July 7, 1898, c. 571; Act Feb. 24, 1899, c. 187, § 4; ante, §§ 238-240.

Employés of Bureau of Engraving and Printing, Act July 6, 1892, c. 154; and Act June 8, 1896, c. 373; ante, §§ 511, 512.


Employés of the customs service, Act Aug. 28, 1890, c. 812, § 1; post, § 5374.

Storekeepers, gaugers, and storekeeper-gaugers, in the internal revenue service, by Act June 23, 1910, c. 386; post, § 5877.

Clerks and employés in first and second class post-offices and mail bag repair shops, Act Oct. 1, 1890, c. 1260; Act May 27, 1908, c. 206; post, §§ 7241, 7244.

Letter carriers at free-delivery post-offices, Act June 27, 1884, c. 128; Act May 27, 1908, c. 206; post, §§ 7243, 7244.

Letter carriers of the rural delivery service, Act March 2, 1907, c. 2518; Act May 27, 1908, c. 206; post, §§ 7244, 7296.

Railway postal clerks, Act March 1, 1909, c. 232; post, § 7521.

Employés of Department of Agriculture outside the city of Washington, Act May 23, 1908, c. 192; ante, § 807.

Officers of the field force of the Coast and Geodetic Survey on duty in the Philippine Islands, Act March 4, 1908, c. 299, § 1; post, § 8556.

§ 3249. (R. S. § 1773.) Commissions.
The President is authorized to make out and deliver, after the adjournment of the Senate, commissions for all officers whose appointments have been advised and consented to by the Senate.

Act March 2, 1897, c. 154, § 6, 14 Stat. 431.
The affixing to commissions of officers, appointed by the President, of the seal of the United States was provided for by R. S. § 1794, post, § 3305.

Commissions of all postmasters appointed by the President, by and with the consent of the Senate, were to be made out and recorded in the Post-Office (1289)
§ 3249  SEVERAL CLASSES OF OFFICERS AND EMPLOYEES  (Tit. 19)

Department, and to be under the seal of said Department, and countersigned by the Postmaster-General, said seal not to be affixed to any such commission until after the same had been signed by the President, by Act March 18, 1874, c. 57, 18 Stat. 23. That act was superseded by the subsequent similar provisions as to commissions of all officers under direction and control of the Postmaster-General, of Act March 3, 1905, c. 1422, post, §§ 3250-3252.

The commissions of officers under direction and control of the Secretaries or other heads of several other Executive Departments were to be made out and recorded in the respective Departments under which they were to serve, and the Department seal affixed thereto, by provisions of Act March 28, 1896, c. 73. Act March 3, 1875, c. 131, § 14, Act Aug. 8, 1888, c. 786, and Act March 3, 1905, c. 1422, post, §§ 3250-3252.

§ 3250. (Act March 28, 1896, c. 73.) Commissions of officers under Secretaries of certain Departments.

Hereafter the commissions of all officers under the direction and control of the Secretary of the Treasury, the Secretary of War, the Secretary of the Navy, and the Secretary of Agriculture shall be made out and recorded in the respective Departments under which they are to serve, and the Department seal affixed thereto, any laws to the contrary notwithstanding: Provided, That the said seal shall not be affixed to any such commission before the same shall have been signed by the President of the United States. (29 Stat. 75.)

This was an act entitled "An act to regulate the issue and recording of the commissions of officers in several of the Departments."

Similar previous provisions, as to making out and recording, etc., in the Treasury Department, commissions of all officers employed in levying or collecting the public revenue, of R. S. § 238, were superseded by this act.

Similar provisions, relating to commissions of officers under heads of Departments other than those included in this act, made by Act March 3, 1875, c. 131, § 14, Act Aug. 8, 1888, c. 786, and Act March 3, 1905, c. 1422, are set forth post, §§ 3251-3253.

§ 3251. (Act March 3, 1875, c. 131, § 14.) Commissions of officers under Secretary of the Interior.

Hereafter the commissions of all officers under the direction of and control of the Secretary of the Interior shall be made out and recorded in the Department of the Interior, and the seal of the said Department affixed thereto; any laws to the contrary notwithstanding: Provided, That the said seal shall not be affixed to any such commission before the same shall have been signed by the President of the United States. (18 Stat. 420.)

This section was part of the deficiency appropriation act for the fiscal year 1875, cited above.

A further paragraph of this section declared legal and valid all commissions theretofore issued in conformity to the provisions of the third section of Act May 31, 1854, and all official acts done by officers thus commissioned. It is omitted here, as temporary merely.

Said Act May 31, 1854, c. 60, § 8, 10 Stat. 297, contained the same provision as the first paragraph of this section, set forth here, but was not incorporated in the Revised Statutes.

§ 3252. (Act Aug. 8, 1888, c. 786.) Commissions of judicial officers and other officers under Attorney-General.

Hereafter the commissions of all judicial officers, including marshals and attorneys of the United States, appointed by the Presi-
dent, by and with the advice and consent of the Senate, and all other commissions heretofore prepared at the Department of State upon the requisition of the Attorney-General, shall be made out and recorded in the Department of Justice, and shall be under the seal of said Department and countersigned by the Attorney-General, any laws to the contrary notwithstanding: Provided, That the said seal shall not be affixed to any such commission before the same shall have been signed by the President of the United States. (25 Stat. 387.)

This was an act entitled "An act to provide for the issuing and recording of certain commissions in the Department of Justice."

§ 3253. (Act March 3, 1905, c. 1422.) Commissions of officers under Postmaster-General and Secretary of Commerce and Labor.

Hereafter the commissions of all officers under the direction and control of the Postmaster-General and the Secretary of Commerce [and Labor] shall be made out and recorded in the Post-Office Department and the Department of Commerce [and Labor], respectively, and the Department seal affixed thereto, any laws to the contrary notwithstanding: Provided, That the said seal shall not be affixed to any such commission before the same shall have been signed by the President of the United States. (33 Stat. 990.)

This was an act entitled "An act relative to the commissions of officers who are under the direction and control of the Postmaster-General and the Secretary of Commerce and Labor, respectively."

The words of this section, "and Labor," inclosed in brackets, forming part of the titles of the Secretary and of the Department of Commerce and Labor, were superseded by the change of those designations by Act March 4, 1913, c. 141, § 1, ante, § 932.

A further provision of this act, declaring legal and valid all commissions theretofore issued by the Department of Commerce and Labor with the seal of that Department affixed, is omitted here, as temporary merely.

Previous provisions that the commissions of all postmasters appointed by the President, by and with the consent and advice of the Senate, should be made out and recorded in the Post-Office Department, and be under the seal of said Department, and countersigned by the Postmaster-General, made by Act March 18, 1874, c. 57, 18 Stat. 25, were superseded by this act.

The seal of the Post-Office Department was to be affixed to all commissions of postmasters and others, by R. S. § 396, ante, § 581.

§ 3254. (R. S. § 1774.) Notification of appointments to Secretary of Treasury.

Whenever the President, without the advice and consent of the Senate, designates, authorizes, or employs any person to perform the duties of any office, he shall forthwith notify the Secretary of the Treasury thereof, and the Secretary of the Treasury shall thereupon communicate such notice to all the proper accounting and disbursing officers of his Department.

Act March 2, 1867, c. 154, § 8, 14 Stat. 431.

§ 3255. (R. S. § 1775.) Notification of nominations, rejections, etc., to Secretary of Treasury.

The Secretary of the Senate shall, at the close of each session thereof, deliver to the Secretary of the Treasury, and to each of the Assistant Secretaries of the Treasury, and to each of the Auditors,
§ 3255  SEVERAL CLASSES OF OFFICERS AND EMPLOYEES  (Tit. 19)

and to each of the Comptrollers in the Treasury, and to the Treasurer, and to the Register of the Treasury, a full and complete list, duly certified, of all the persons who have been nominated to and rejected by the Senate during such session, and a like list of all the offices to which nominations have been made and not confirmed and filled at such session.

Act March 2, 1867, c. 154, § 7, 14 Stat. 431.

Of the two Comptrollers in the Treasury, mentioned in this section, who were authorised by R. S. § 268, ante, § 401, the designation of the First Comptroller was changed to Comptroller of the Treasury, and the office of Second Comptroller was abolished and its duties, powers, etc., were transferred to the Comptroller, by provisions of the Dockery Act of July 31, 1894, c. 174, § 4, ante, § 402.

§ 3256. (R. S. § 1776.) Removal of office.
Whenever any public office is removed by reason of sickness which may prevail in the town or city where it is located, a particular account of the cost of such removal shall be laid before Congress.

Act April 21, 1806, c. 41, § 6, 2 Stat. 397.

The removal of public offices to other places in case of the prevalence of contagious or epidemic disease was provided for by R. S. §§ 4797-4798, post, §§ 9179-9181.

§ 3257. (R. S. § 1777.) Preservation of copies of Statutes at Large.
The various officers of the United States, to whom, in virtue of their offices and for the uses thereof, copies of the United States Statutes at Large, published by Little, Brown and Company, have been or may be distributed at the public expense, by authority of law, shall preserve such copies, and deliver them to their successors respectively as a part of the property appertaining to the office. A printed copy of this section shall be inserted in each volume of the Statutes distributed to any such officers.

Act Aug. 8, 1846, c. 100, § 1, 9 Stat. 75.

§ 3258. (Act Aug. 7, 1882, c. 433, § 1.) Statutes furnished judges, etc., to remain public property.

All statutes heretofore or hereafter furnished by the United States to district judges, district attorneys, and clerks of the United States courts under this or any other law, shall not become the property of these officers, but on the expiration of their official term shall be by them turned over and delivered to their respective successors in office. (22 Stat. 336.)

This was a proviso annexed to an appropriation to supply the Revised Statutes and annual statutes to district judges, district attorneys, and clerks of United States courts, in the sundry civil appropriation act for the fiscal year ending 1883, cited above.

§ 3259. (R. S. § 1778.) Taking oaths, acknowledgments, etc.

In all cases in which, under the laws of the United States, oaths or acknowledgments may now be taken or made before any justice of the peace of any State or Territory, or in the District of Columbia, they may hereafter be also taken or made by or before any notary public duly appointed in any State, district, or Territory, or any of the commissioners of the circuit courts, and, when certified under

(1292)
the hand and official seal of such notary or commissioner, shall have the same force and effect as if taken or made by or before such justice of the peace.


The office of commissioners of the circuit courts, mentioned in this section, was abolished, and the appointment of United States commissioners, to have the same powers and perform the same duties as were theretofore imposed on the commissioners of the circuit courts, was authorized, by Act May 28, 1896, c. 252, § 19, ante, § 1333.

Acknowledgments of deeds, etc., affecting land in the District of Columbia or any Territory, before notaries public, etc., in the Philippine Islands, Porto Rico, Guam, Samoa, or the Canal Zone, were authorized by Act March 22, 1902, c. 273, and Act June 28, 1906, c. 3585, post, §§ 3260, 3261.

Notaries public were authorized to take depositions de bene esse in pending civil causes by R. S. § 863, ante, § 1472.

Notaries public of the several States, Territories, and the District of Columbia were authorized to take depositions, and do all other acts in relation to taking testimony to be used in the United States courts, and take acknowledgments and affidavits, in the same manner and with the same effect as commissioners of the circuit courts might lawfully take or do by Act Aug. 15, 1876, c. 304, ante, § 1473.

Various officers, chief clerks, and other clerks, etc., specified, were authorized to administer oaths to accounts for travel or other expenses against the United States, by Act Aug. 24, 1912, c. 355, § 8, post, § 3262.

§ 3260. (Act March 22, 1902, c. 273.) Acknowledgments in Philippine Islands and Porto Rico of deeds, etc.

Deeds and other instruments affecting land situate in the District of Columbia or any Territory of the United States may be acknowledged in the Philippine Islands and Porto Rico before any notary public appointed therein by proper authority or any officer therein who has ex officio the powers of a notary public: Provided, That the certificate by such notary in the Philippine Islands or in Porto Rico, as the case may be, shall be accompanied by the certificate of the attorney-general of Porto Rico or the governor or attorney-general of the Philippine Islands to the effect that the notary taking said acknowledgment was in fact the officer he purported to be. (32 Stat. 88.)

Similar provisions for acknowledgment of deeds, etc., in Guam, Samoa, and the Canal Zone, were made by Act June 28, 1906, c. 3585, post, § 3261.

§ 3261. (Act June 28, 1906, c. 3585.) Acknowledgments in islands of Guam and Samoa or in Canal Zone, of deeds, etc.

Deeds and other instruments affecting land situate in the District of Columbia or any Territory of the United States may be acknowledged in the islands of Guam and Samoa or in the Canal Zone before any notary public or judge, appointed therein by proper authority, or by any officer therein who has ex officio the powers of a notary public: Provided, That the certificate by such notary in Guam, Samoa, or the Canal Zone, as the case may be, shall be accompanied by the certificate of the governor or acting governor of such place to the effect that the notary taking said acknowledgment was in fact the officer he purported to be; and any deeds or other instruments affecting lands so situate, so acknowledged since the first day of January, nineteen hundred and five, and accompanied by such certificate (1293)
§ 3262. (Act Aug. 24, 1912, c. 355, § 8.) Officers authorized to administer oaths to expense accounts; no charges allowed or reimbursement therefor.

After June thirtieth, nineteen hundred and twelve, postmasters, assistant postmasters, collectors of customs, collectors of internal revenue, chief clerks of the various executive departments and bureaus, or clerks designated by them for the purpose, the superintendent, the acting superintendent, custodian, and principal clerks of the various national parks and other Government reservations, superintendent, acting superintendents, and principal clerks of the different Indian superintendencies or Indian agencies, and chiefs of field parties, are required, empowered, and authorized, when requested, to administer oaths, required by law or otherwise, to accounts for travel or other expenses against the United States, with like force and effect as officers having a seal; for such services when so rendered, or when rendered on demand after said date by notaries public, who at the time are also salaried officers or employees of the United States, no charge shall be made; and on and after July first, nineteen hundred and twelve, no fee or money paid for the services herein described shall be paid or reimbursed by the United States. (37 Stat. 487.)

This section was part of the sundry civil appropriation act for the fiscal year 1913, cited above.

§ 3263. (R. S. § 1779.) Restriction upon payments for newspapers, etc.

No executive officer, other than the heads of Departments, shall apply more than thirty dollars, annually, out of the contingent fund under his control, to pay for newspapers, pamphlets, periodicals, or other books or prints not necessary for the business of his office.

Act March 3, 1839, c. 82, § 3, 5 Stat. 849.
Expenditures for newspapers by the Executive Departments were restricted by R. S. § 102, ante, § 278.

(R. S. §§ 1780–1783. Repealed.) These sections provided for punishment of any officer, etc., who should neglect or refuse to make returns or reports required, or who should take any consideration for procuring, etc., any contract, office, etc., or who should take compensation in any matter to which the United States was a party, or who should act as officer or agent of the United States in any transaction, being peculiarly interested therein. They were incorporated into the Criminal Code, in chapter 5, §§ 101, 110, 112, 113, post, §§ 10288, 10290, 10292, 10293, and in chapter 4, § 41, thereof, post, § 10205, and were repealed by section 341 thereof, post, § 10515.

A subsequent act, making it unlawful for certain officers specified, or other person holding any office, employment, etc., under the Government of the United States, to purchase, at less than full value, any of certain claims against the United States, and making any violation of the act punishable as a misdemeanor, Act Feb. 25, 1897, c. 316, 29 Stat. 595, was also incorporated into the Criminal Code, in chapter 5, § 104, thereof, post, § 10273, and was repealed by section 341 thereof, post, § 10515.

(1294)
§ 3264. (R. S. § 1784.) Prohibition of contributions, presents, etc., to superiors.

No officer, clerk, or employé in the United States Government employ shall at any time solicit contributions from other officers, clerks, or employés in the Government service for a gift or present to those in a superior official position; nor shall any such officials or clerical superiors receive any gift or present offered or presented to them as a contribution from persons in Government employ receiving a less salary than themselves; nor shall any officer or clerk make any donation as a gift or present to any official superior. Every person who violates this section shall be summarily discharged from the Government employ.

Act Feb. 1, 1870, c. 11, 16 Stat. 63.

(R. S. § 1785. Repealed.)

This section provided for punishment of any officer, etc., aiding, etc., in importing or trading in obscene publications, etc., or articles of indecent or immoral use, etc. It was incorporated into the Criminal Code, in chapter 5, § 102, thereof, post, § 10271, and was repealed by section 341 thereof, post, § 10687.

Provisions in substantially the same language as this section, contained in the Dingley Tariff Act of July 24, 1897, c. 11, § 17, 30 Stat. 209, also incorporated in said Criminal Code and repealed thereby, Crim. Code, §§ 102, 341, post, §§ 10271, 10687, were re-enacted in the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 10, 36 Stat. 86, and were again re-enacted in the Underwood Tariff Act of Oct. 3, 1913, c. 16, § 43, G, subsec. 2, post, § 5300.

(R. S. § 1786. Superseded.)

This section provided for proceedings by quo warranto for removal from office of any person holding office contrary to the provisions of section 3 of the fourteenth amendment to the Constitution. It was superseded by the removal of the disability imposed by said section 3 of the fourteenth amendment to the Constitution, by Act June 6, 1898, c. 389, ante, § 3219.

(R. S. § 1787. Repealed.)

This section provided that every person knowingly accepting or holding, etc., any office under the United States or any state, to which he was ineligible under section 3 of the fourteenth amendment to the Constitution, should be guilty of a misdemeanor, and prescribed the punishment therefor. It was superseded, with R. S. § 1786, by the removal of the disability imposed by said section 3 of the fourteenth amendment to the Constitution, by Act June 6, 1898, c. 389, ante, § 3219, and was repealed by Crim. Code, § 341, post, § 10687.

(R. S. §§ 1788, 1789. Repealed.)

This sections provided for punishment of officers concerned in disbursement or collection of the county who should carry on any trade or business in public funds or property. They were incorporated into the Criminal Code, in chapter 5, § 103, thereof, post, § 10272, and were repealed by section 341 thereof, post, § 10687.

§ 3265. (R. S. § 1790.) Restriction on payment for services.

No officer or clerk whose duty it is to make payments on account of the salary or wages of any officer or person employed in connection with the customs or the internal-revenue service, shall make any payment to any officer or person so employed on account of services rendered, or of salary, unless such officer or person so to be paid has
made and subscribed an oath that, during the period for which he is to receive pay, neither he, nor any member of his family, has received, either personally or by the intervention of another party, any money or compensation of any description whatever, nor any promises for the same, either directly or indirectly, for services rendered or to be rendered, or acts performed or to be performed, in connection with the customs or internal revenue; or has purchased, for like services or acts, from any importer, if affiant is connected with the customs, or manufacturer, if affiant is connected with the internal-revenue service, consignee, agent, or custom-house broker, or other person whomsoever, any merchandise, at less than regular retail market prices therefor.

Act July 18, 1806, c. 201, § 30, 14 Stat. 185.
Collectors of customs and their special deputies were authorized to administer oaths to officers of the Revenue Marine Service and employees in the customs service required by this section by Act March 15, 1808, c. 68, § 1, post, § 5380.

§ 3266. (Act Feb. 24, 1899, c. 187, § 4.) Civil pension roll, etc., prohibited.

The establishment of a civil pension roll or an honorable service roll, or the exemption of any of the officers, clerks, and persons in the public service from the existing laws respecting employment in such service, is hereby prohibited. (30 Stat. 890.)

This was a provision of section 4 of the legislative, executive, and judicial appropriation act for the fiscal year 1900, cited above.

The preceding portion of the section provided that "the appropriations herein made for the officers, clerks, and other persons employed in the public service shall not be available for the compensation of any persons permanently incapacitated for performing such service." A provision substantially similar is made by each subsequent legislative, executive, and judicial appropriation act. The provision for the fiscal year 1914, by Act March 4, 1913, c. 142, § 3, 37 Stat. 700, was as follows:

"The appropriations herein made for the officers, clerks, and persons employed in the public service shall not be available for the compensation of any persons incapacitated otherwise than temporarily for performing such service."

A provision annexed to this section, that the annual leave of absence to clerks and employees in the Executive Departments, shall be exclusive of Sundays and legal holidays, is set forth ante, § 240.

A provision similar to that of this section, set forth here, prohibiting the establishment of a civil pension roll, etc., in the postal service, made by Act March 1, 1900, c. 232, is set forth post, § 7252.

§ 3267. (Res. April 15, 1904, No. 23.) Medals presented to officers or others for distinguished or meritorious services; duplicates for those lost or destroyed.

In any case where the President of the United States has heretofore, under any Act or resolution of Congress, caused any medal to be made and presented to any officer or person in the United States on account of distinguished or meritorious services, on a proper showing made by such person to the satisfaction of the President that such medal has been lost or destroyed through no fault of the beneficiary, and that diligent search has been made therefor, the President is hereby authorized to cause to be prepared and delivered to such person a duplicate of such medal, the cost of which
shall be paid out of any money in the Treasury not otherwise appropria-
ted. (33 Stat. 588.)

This was a joint resolution entitled "Joint resolution authorizing the issue
of duplicate medals where the originals have been lost or destroyed."
The issue of medals of honor to replace medals issued to officers or men of
the Army for distinguished gallantry in action, under Res. July 12, 1862, No.
62, 12 Stat. 622, and Act March 3, 1863, c. 79, § 6, 12 Stat. 751, was author-
ized by provisions of Act April 23, 1904, c. 1485, ante, § 1940.

§ 3268. (Act Jan. 31, 1881, c. 32, § 2.) Foreign decorations, etc.,
conferred on officers of United States; not to be shown or ex-
posed upon person of officer.

No decoration, or other thing, the acceptance of which is author-
ized by this act, and no decoration heretofore accepted, or which
may hereafter be accepted, by consent of Congress, by any officer
of the United States, from any foreign government, shall be pub-
licly shown or exposed upon the person of the officer so receiving
the same. (21 Stat. 604.)

This section and the section next following were sections 2 and 3 of an act
entitled "An act authorizing certain persons therein named to accept of certain
decorations and presents therein, from foreign governments, and for other
purposes."

Officers of the United States are prohibited from accepting, without the con-
sent of Congress, any present, emolument, office, or title, of any kind what-
ever, from any King, prince, or foreign state, by Const. art. 1, § 9, cl. 8,
ante, p. l.

Section 1 of this act authorized certain officers named to accept certain
decorations, medals, and presents, specified therein, from foreign governments.
It is omitted, as private and temporary merely.

§ 3269. (Act Jan. 31, 1881, c. 32, § 3.) Foreign decorations, etc.,
conferred on officers of United States; delivery through State
Department.

Hereafter any present, decoration, or other thing, which shall
be conferred or presented by any foreign government to any offi-
cer of the United States, civil, naval, or military, shall be tendered
through the Department of State, and not to the individual in
person, but such present, decoration, or other thing shall not be de-
ivered by the Department of State unless so authorized by act of
Congress. (21 Stat. 604.)

See notes to preceding section of this act, ante, § 3268.

§ 3270. (Act Aug. 15, 1876, c. 287, § 6.) Prohibition of contribu-
tions for political purposes; discharge from service and punish-
ment for violation of provisions.

All executive officers or employees of the United States not ap-
pointed by the President, with the advice and consent of the Sen-
ate, are prohibited from requesting, giving to, or receiving from, any
other officer or employee of the Government, any money or property
or other thing of value for political purposes; and any such officer
or employee, who shall offend against the provisions of this section
shall be at once discharged from the service of the United States;
and he shall also be deemed guilty of a misdemeanor, and on con-
§ 3270  SEVERAL CLASSES OF OFFICERS AND EMPLOYEES  (Tit. 19

violation thereof shall be fined in a sum not exceeding five hundred dollars. (19 Stat. 169.)

This section was part of the legislative, executive, and judicial appropriation act for the fiscal year 1877, cited above.

The provisions of this section for punishment as a misdemeanor of any offense against its provisions were superseded by the more comprehensive provisions of the Civil Service Act of Jan. 16, 1883, c. 27, §§ 11-15, 22 Stat. 406, 407, which were incorporated in the Criminal Code, §§ 118-122, post, §§ 10298-10392, and were repealed by section 541 of said Code, post, § 10315.

CHAPTER B

Civil Service Commission and Classified Civil Service

Sec. 3271. Civil Service Commission; appointment; removal; vacancies; salaries and expenses.

3272. Duties of commissioners.
(1) Preparation of rules.
(2) Provisions of rules.

1. Competitive examinations.
2. Selection of officers, etc., according to results of examinations.

3. Apportionment of appointment; applications for examinations.

4. Probation before absolute appointment.

5. Contributions for political purposes.

6. Political coercion by officers.

7. Non-competitive examinations in certain cases.

8. Notice of appointments, rejections, transfers, resignations, and removals; exceptions to be set forth with rules.

(3) Regulations for examinations, and records.

4. Investigations and reports on execution of act.

5. Annual reports.

3273. Members and representatives of Commission authorized to administer oaths to witnesses.

3274. Chief examiner; secretary of Commission, and employees; boards of examiners; times and places for examinations.

3275. Rooms and accommodations for Commission.

3276. Violation of duties, etc., by commissioners, officers, etc.

(1298)
Ch. B)  SEVERAL CLASSES OF OFFICERS AND EMPLOYEES § 3272

3285. System of efficiency ratings for classified service in Executive Departments based upon records; minimum ratings for promotion, demotion and dismissal, subject to civil service rules; copies of records for Commission; retention of honorably discharged soldiers and sailors on reductions of force; removal from office and punishment for violation of section.

3286. Reports by Commission as to administrative needs of personnel in Executive Departments, etc., and as to system of efficiency ratings.

3287. Removals from classified civil service only for cause, to promote efficiency; notice of charges, answer, etc.; record of removal, and copies thereof; membership in organization of postal employees for improving conditions, etc., not cause for removal in rank, etc.; or for removal; right to petition, etc., Congress, not to be denied.

§ 3271. (Act Jan. 16, 1883, c. 27, § 1.) Civil Service Commission; appointment; removal; vacancies; salaries and expenses.

The President is authorized to appoint, by and with the advice and consent of the Senate, three persons, not more than two of whom shall be adherents of the same party, as Civil Service Commissioners, and said three commissioners shall constitute the United States Civil Service Commission. Said commissioners shall hold no other official place under the United States.

The President may remove any commissioner; and any vacancy in the position of commissioner shall be so filled by the President, by and with the advice and consent of the Senate, as to conform to said conditions for the first selection of commissioners.

The commissioners shall each receive a salary of three thousand five hundred dollars a year. And each of said commissioners shall be paid his necessary traveling expenses incurred in the discharge of his duty as a commissioner. (22 Stat. 403.)

This section and the section next following were sections 1 and 2 of the Civil Service Act of 1883, cited above.

Sections 3-10 of the act are set forth post, §§ 3274-3278, 3280-3282.

Sections 11-15 of the act, prohibiting assessments, subscriptions, and contributions for political purposes, from officers, clerks, or employés, etc., of the United States, and making punishable violations of their provisions, were incorporated in the Criminal Code, in Chapter 5, §§ 118-122 thereof, post, §§ 10258-10262, and were repealed by section 341 thereof, post, § 10615.

Recent legislative, executive, and judicial appropriation acts provide for salaries for the commissioners increased beyond the amount fixed by this section. The provisions for the fiscal year 1914 were: "For commissioner, acting as president of the commission, $4,500; two commissioners, at $4,000 each," by Act March 4, 1913, c. 142, § 1, 37 Stat. 749.

§ 3272. (Act Jan. 16, 1883, c. 27, § 2.) Duties of commissioners.

It shall be the duty of said commissioners:

(1) Preparation of rules.

First. To aid the President, as he may request, in preparing suitable rules for carrying this act into effect, and when said rules shall have been promulgated it shall be the duty of all officers of the United States in the departments and offices to which any such rules may relate to aid, in all proper ways, in carrying said rules, and any modification thereof, into effect.

(1299)
§ 3272        SEVERAL CLASSES OF OFFICERS AND EMPLOYEES  (Tit. 19)

(2) Provisions of rules.
    Second. And, among other things, said rules shall provide and declare, as nearly as the conditions of good administration will warrant, as follows:

1. Competitive examinations.
    First, for open, competitive examinations for testing the fitness of applicants for the public service now classified or to be classified hereunder. Such examinations shall be practical in their character, and so far as may be shall relate to those matters which will fairly test the relative capacity and fitness of the persons examined to discharge the duties of the service into which they seek to be appointed.

2. Selection of officers, etc., according to results of examinations.
    Second, that all the offices, places, and employments so arranged or to be arranged in classes shall be filled by selections according to grade from among those graded highest as the results of such competitive examinations.

3. Apportionment of appointments; applications for examinations.
    Third, appointments to the public service aforesaid in the departments at Washington shall be apportioned among the several States and Territories and the District of Columbia upon the basis of population as ascertained at the last preceding census. Every application for an examination shall contain, among other things, a statement, under oath, setting forth his or her actual bona fide residence at the time of making the application, as well as how long he or she has been a resident of such place.
    A similar apportionment of the appointments of the Treasury Department was provided for by Act March 3, 1875, c. 130, § 2, ante, § 302.
    Applications for examination for appointment in the Departmental service in the District of Columbia were required to be accompanied by a certificate of an officer, of the residence of the applicant, by a provision of Act July 11, 1890, c. 607, § 1, post, § 3283.
    Applications for appointment were required to be accompanied by a certificate of health, by a provision of Act July 2, 1908, c. 2, § 7, post, § 3284.

4. Probation before absolute appointment.
    Fourth, that there shall be a period of probation before any absolute appointment or employment aforesaid.

5. Contributions for political purposes.
    Fifth, that no person in the public service is for that reason under any obligations to contribute to any political fund, or to render any political service, and that he will not be removed or otherwise prejudiced for refusing to do so.
    Assessments, subscriptions, and contributions for political purposes were prohibited by sections 11-15 of this act which were incorporated into the Criminal Code, in Chapter 5, §§ 118-122 thereof, post, §§ 10288-10292, and were repealed by section 341 thereof, post, § 10515.

6. Political coercion by officers.
    Sixth, that no person in said service has any right to use his official authority or influence to coerce the political action of any person or body.

(1300)
7. Non-competitive examinations in certain cases.
Seventh, there shall be non-competitive examinations in all proper cases before the commission, when competent persons do not compete, after notice has been given of the existence of the vacancy, under such rules as may be prescribed by the commissioners as to the manner of giving notice.

8. Notice of appointments, rejections, transfers, resignations, and removals; exceptions to be set forth with rules.
Eighth, that notice shall be given in writing by the appointing power to said commission of the persons selected for appointment or employment from among those who have been examined, of the place of residence of such persons, of the rejection of any such persons after probation, of transfers, resignations, and removals, and of the date thereof, and a record of the same shall be kept by said commission. And any necessary exceptions from said eight fundamental provisions of the rules shall be set forth in connection with such rules, and the reasons therefor shall be stated in the annual reports of the commission.

(3) Regulations for examinations, and records.
Third. Said commission shall, subject to the rules that may be made by the President, make regulations for, and have control of, such examinations, and, through its members or the examiners, it shall supervise and preserve the records of the same; and said commission shall keep minutes of its own proceedings.

(4) Investigations and reports on execution of act.
Fourth. Said commission may make investigations concerning the facts, and may report upon all matters touching the enforcement and effects of said rules and regulations, and concerning the action of any examiner or board of examiners hereinafter provided for, and its own subordinates, and those in the public service, in respect to the execution of this act.

Members of commission and its representatives were authorized to administer oaths in any matter depending before it, by a provision of Act Aug. 23, 1912, c. 350, § 1, post, § 3273.

(5) Annual reports.
Fifth. Said commission shall make an annual report to the President for transmission to Congress, showing its own action, the rules and regulations and the exceptions thereto in force, the practical effects thereof, and any suggestions it may approve for the more effectual accomplishment of the purposes of this act.

The Commission was required to report to the President as to the administrative needs relating to personnel in the Executive Departments, and to report to Congress details of expenditure and of progress of work under the appropriation for the system of efficiency ratings for the classified service in the Executive Departments, by a provision of Act March 4, 1912, c. 142, § 1, post, § 3296.
The printing and distribution of the reports of the commission were provided for by the Public Printing and Binding Act of Jan. 12, 1896, c. 23, § 73, par. 13, post, § 7005.

(1301)
§ 3273. (Act Aug. 23, 1912, c. 350, § 1.) Members and representa-
tives of Commission authorized to administer oaths to wit-
tnesses.

Members of the Civil Service Commission and its duly author-
ized representatives are hereafter authorized to administer oaths
to witnesses in any matter depending before the Civil Service
Commission. (37 Stat. 372.)

This was a provision of the legislative, executive, and judicial appropriation
act for the fiscal year 1913, cited above.

A previous provision, authorizing members of the Commission to administer
such oaths, was made by Act June 17, 1910, c. 267, § 1, 36 Stat. 483.

§ 3274. (Act Jan. 16, 1883, c. 27, § 3.) Chief examiner; secretary
of Commission, and employés; boards of examiners; times and
places for examinations.

Said commission is authorized to employ a chief examiner, a part
of whose duty it shall be, under its direction, to act with the ex-
amining boards, so far as practicable, whether at Washington or
elsewhere, and to secure accuracy, uniformity, and justice in all
their proceedings, which shall be at all times open to him. The
chief examiner shall be entitled to receive a salary at the rate of
three thousand dollars a year, and he shall be paid his necessary
traveling expenses incurred in the discharge of his duty. The com-
mision shall have a secretary, to be appointed by the President, who
shall receive a salary of one thousand six hundred dollars per annum.
It may, when necessary, employ a stenographer, and a messenger,
who shall be paid, when employed, the former at the rate of one
thousand six hundred dollars a year, and the latter at the rate of six
hundred dollars a year. The commission shall, at Washington, and
in one or more places in each State and Territory where examina-
tions are to take place, designate and select a suitable number of
persons, not less than three, in the official service of the United
States, residing in said State or Territory, after consulting the head
of the department or office in which such persons serve, to be mem-
ers of boards of examiners, and may at any time substitute any
other person in said service living in such State or Territory in the
place of any one so selected. Such boards of examiners shall be so
located as to make it reasonably convenient and inexpensive for ap-
licants to attend before them; and where there are persons to be
examined in any State or Territory, examinations shall be held
therein at least twice in each year. It shall be the duty of the col-
lector, postmaster, and other officers of the United States, at any
place outside of the District of Columbia where examinations are
directed by the President or by said board to be held, to allow the
reasonable use of the public buildings for holding such examinations,
and in all proper ways to facilitate the same. (22 Stat. 404.)

The legislative, executive, and judicial appropriation acts, under the head
"Civil Service Commission," make appropriations for the officers, etc., au-
thorized by this section, in most instances at increased rates of compensation,
and for additional officers, clerks, etc., constituting, in recent years, a largely increased office force, and including also a custodian force and a field force. The provisions for the fiscal year 1914 were by Act March 4, 1913, c. 142, § 1, 37 Stat. 749. The recent appropriations for the Commission are accompanied by a proviso against the detail of clerks or other employés from the Executive Departments or other Government establishments in Washington, D. C., to the Commission, for the performance of duty in the District of Columbia, for or during the fiscal year; but the Commission is given power, in case of emergency, to transfer or detail its employés to or from its office force, field force, etc. Such provisions for the fiscal year 1914 were by Act March 4, 1913, c. 142, § 1, 37 Stat. 750.

§ 3275. (Act Jan. 16, 1883, c. 27, § 4.) Rooms and accommodations for Commission.

It shall be the duty of the Secretary of the Interior to cause suitable and convenient rooms and accommodations to be assigned or provided, and to be furnished, heated, and lighted, at the city of Washington, for carrying on the work of said commission and said examinations, and to cause the necessary stationery and other articles to be supplied, and the necessary printing to be done for said commission. (22 Stat. 405.)

§ 3276. (Act Jan. 16, 1883, c. 27, § 5.) Violation of duties, etc., by commissioners, officers, etc.

Any said commissioner, examiner, copyist, or messenger, or any person in the public service who shall willfully and corruptly, by himself or in co-operation with one or more other persons, defeat, deceive, or obstruct any person in respect of his or her right of examination according to any such rules or regulations, or who shall willfully, corruptly, and falsely mark, grade, estimate, or report upon the examination or proper standing of any person examined hereunder, or aid in so doing, or who shall willfully and corruptly make any false representations concerning the same or concerning the person examined, or who shall willfully and corruptly furnish to any person any special or secret information for the purpose of either improving or injuring the prospects or chances of any person so examined, or to be examined, being appointed, employed, or promoted, shall for each such offense be deemed guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than one hundred dollars, nor more than one thousand dollars, or by imprisonment not less than ten days, nor more than one year, or by both such fine and imprisonment. (22 Stat. 405.)

§ 3277. (Act Jan. 16, 1883, c. 27, § 6.) (1) Classification of clerks and employés in customs districts.

Within sixty days after the passage of this act it shall be the duty of the Secretary of the Treasury, in as near conformity as may be to the classification of certain clerks now existing under the one hundred and sixty-third section of the Revised Statutes, to arrange in classes the several clerks and persons employed by the collector, naval officer, surveyor, and appraisers, or either of them, or being in the public service, at their respective offices in each customs district where the whole number of said clerks and persons (1808)
shall be all together as many as fifty. And thereafter, from time to
time, on the direction of the President, said Secretary shall make the
like classification or arrangement of clerks and persons so employed,
in connection with any said office or offices, in any other customs
district. And, upon like request, and for the purposes of this act,
said Secretary shall arrange in one or more of said classes, or of ex-
isting classes, any other clerks, agents, or persons employed under
his department in any said district not now classified; and every such
arrangement and classification upon being made shall be reported
to the President.

(2) Classification of clerks and employes at post-offices.
Second. Within said sixty days it shall be the duty of the Post-
master-General, in general conformity to said one hundred and sixty-
third section, to separately arrange in classes the several clerks and
persons employed, or in the public service, at each post-office, or
under any postmaster of the United States, where the whole number
of said clerks and persons shall together amount to as many as fifty.
And thereafter, from time to time, on the direction of the President,
it shall be the duty of the Postmaster-General to arrange in like
classes the clerks and persons so employed in the postal service in
connection with any other post-office; and every such arrangement
and classification upon being made shall be reported to the President.

(3) Revision of classification and inclusion, by heads of Executive
Departments, of places, clerks, etc., not before classified.
Third. That from time to time said Secretary, the Postmaster-
General, and each of the heads of departments mentioned in the one
hundred and fifty-eighth section of the Revised Statutes, and each
head of an office, shall, on the direction of the President, and for
facilitating the execution of this act, respectively revise any then ex-
isting classification or arrangement of those in their respective de-
partments and offices, and shall, for the purposes of the examination
herein provided for, include in one or more of such classes, so far
as practicable, subordinate places, clerks, and officers in the public
service pertaining to their respective departments not before classi-
ified for examination. (22 Stat. 405.)

R. S. § 163, ante, § 242, mentioned in this section, provided that the clerks
in the Departments should be arranged in four classes, designated as the
first, second, third, and fourth classes.
R. S. § 158, ante, § 232, also mentioned in this section, enumerated the execu-
tive departments, and included the Departments of State, of War, of the Treas-
ury, of Justice, the Post-Office Department, and the Departments of the Navy
and of the Interior. The Department of Agriculture was included by amend-
ment of the section by Act Feb. 9, 1889, c. 122, § 1, ante, § 789. The De-
partment of Commerce was also included by a further amendment thereof
by Act Feb. 14, 1903, c. 532, § 1, ante, § 853. And the Department of La-
bor was likewise included by another amendment thereof by Act March 4,
1913, c. 141, § 1, ante, § 932.

§ 3278. (Act Jan. 16, 1883, c. 27, § 7.) Appointments and promo-
tions in classified service to be made only upon examination;
officers and persons not required to be classified.
After the expiration of six months from the passage of this act
§ 3279

no officer or clerk shall be appointed, and no person shall be employed to enter or be promoted in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules, until he has passed an examination, or is shown to be specially exempted from such examination in conformity herewith. But nothing herein contained shall be construed to take from those honorably discharged from the military or naval service any preference conferred by the seventeen hundred and fifty-fourth section of the Revised Statutes, nor to take from the President any authority not inconsistent with this act conferred by the seventeen hundred and fifty-third section of said statutes; nor shall any officer not in the executive branch of the government, or any person merely employed as a laborer or workman, be required to be classified hereunder; nor, unless by direction of the Senate, shall any person who has been nominated for confirmation by the Senate be required to be classified or to pass an examination. (22 Stat. 406.)

Provisions of R. S. § 194, for examination for appointment of clerks in the executive departments were superseded by those of this act.

Immigrant inspectors and other immigration officers, clerks, and employees were to be appointed, and their compensation fixed and raised or decreased from time to time, in accordance with the provisions of this act, by a provision of the Immigration Act of Feb. 20, 1907, c. 1154, § 24, post, § 4279.

Employees of the Census Office who were appointed to the permanent Census Office established by Act March 6, 1902, c. 139, ante, §§ 909–914, were placed, without further examination, under the provisions of this act and the amendments thereto and the rules established thereunder, and all new appointments to the permanent clerical force in the Census Office were to be made in accordance with the requirements of this act, by provisions of section 6 of said Census Act of 1902, ante, § 914.

Deputy collectors of internal revenue and deputy marshals who may be required to execute bonds to secure faithful performance of official duty may be appointed without regard to the provisions of this act, by a provision of Act Oct. 22, 1913, c. 32, post, § 3279.

Attorneys, etc., clerks, and other employees, deemed necessary to conduct the business of the Federal Reserve Board created by the Federal Reserve Act, may be appointed without regard to the provisions of this act, by a provision of section 11 of said act, Act Dec. 23, 1913, c. 6, § 11, post, § 9794.

The classified laborers in the Department of Agriculture whose positions were transferred from the lump funds to the statutory rolls in the appropriations for the Department by Act March 6, 1905, c. 1405, 33 Stat. 883, were placed in the classified service by a provision of Act June 30, 1906, c. 3913, ante, § 828.

§ 3279. (Act Oct. 22, 1913, c. 32.) Appointments of collectors of internal revenue and deputy marshals, required to give bond, without regard to provisions of Civil Service Act; revocations, by officer requiring said bond, of appointments of subordinates, and appointments of successors, at discretion.

Hereafter any deputy collector of internal revenue or deputy marshal who may be required by law or by authority or direction of the collector of internal revenue or the United States marshal to execute a bond to the collector of internal revenue or United States marshal to secure faithful performance of official duty may be appointed by the said collector or marshal, who may require such bond without regard to the provisions of an Act of Congress entitled "An Act to regulate and improve the civil service of the
§ 3279  SEVERAL CLASSES OF OFFICERS AND EMPLOYEES  (Tit. 19)

United States," approved January sixteenth, eighteen hundred and eighty-three, and amendments thereto, or any rule or regulation made in pursuance thereof, and the officer requiring said bond shall have power to revoke the appointment of any subordinate officer or employee and appoint his successor at his discretion without regard to the Act, amendments, rules, or regulations aforesaid. (38 Stat. 208.)

This was a provision of the urgent deficiency appropriation act for the fiscal year 1913, cited above.

§ 3280. (Act Jan. 16, 1883, c. 27, § 8.) Persons habitually using intoxicants to excess not to be appointed or retained.

No person habitually using intoxicating beverages to excess shall be appointed to, or retained in, any office, appointment, or employment to which the provisions of this act are applicable. (22 Stat. 406.)

§ 3281. (Act Jan. 16, 1883, c. 27, § 9.) Restriction on appointments of members of same family.

Whenever there are already two or more members of a family in the public service in the grades covered by this act, no other member of such family shall be eligible to appointment to any of said grades. (22 Stat. 406.)

A subsequent provision that no more than one person be appointed from the same family, of Act July 2, 1900, c. 2, § 7, is set forth post, § 3284.

§ 3282. (Act Jan. 16, 1883, c. 27, § 10.) Recommendations by Senators or Representatives, except as to character or residence, not to be considered in examinations or appointments.

No recommendation of any person who shall apply for office or place under the provisions of this act which may be given by any Senator or member of the House of Representatives, except as to the character or residence of the applicant, shall be received or considered by any person concerned in making any examination or appointment under this act. (22 Stat. 406.)

§ 3283. (Act July 11, 1890, c. 667, § 1.) Applications for examinations to be accompanied by a certificate of residence.

Hereafter every application for examination before the Civil Service Commission for appointment in the Departmental service in the District of Columbia, shall be accompanied by a certificate of an officer, with his official seal attached, of the county and State of which the applicant claims to be a citizen, that such applicant was, at the time of making such application, an actual and bona-fide resident of said county, and had been such resident for a period of not less than six months next preceding; but this provision shall not apply to persons who may be in the service and seek promotion or appointment in other branches of the Government. (26 Stat. 235.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year ending June 30, 1891, cited above.

Requirements of applications for examination were prescribed by Act Jan. 16, 1883, c. 27, § 2, subsec. 2, subd. 3, ante, § 3272.

(1306)
§ 3284. (Act July 2, 1909, c. 2, § 7.) Examinations to be in State, etc., of applicant's residence; persons afflicted with tuberculosis not to be appointed; certificate of health to accompany application; restriction on appointments from same family.

Hereafter all examinations of applicants for positions in the government service, from any State or Territory, shall be had in the State or Territory in which such applicant resides, and no person shall be eligible for such examination or appointment unless he or she shall have been actually domiciled in such State or Territory for at least one year previous to such examination: Provided, however, That no person afflicted with tuberculosis shall be appointed and that each applicant for appointment shall accompany his or her application with a certificate of health from some reputable physician: Provided, however, That in no instance shall more than one person be appointed from the same family. (36 Stat. 3.)

These were provisions annexed to section 7 of an act to provide for the Thirteenth and subsequent decennial censuses, in connection with provisions for additional clerks and employes during the decennial census period.

These provisions, not being in terms restricted to the special test examinations provided for by that act to be conducted by the Civil Service Commission, may be considered, as they are expressed, as applicable to all examinations of applicants for positions in the government service.

§ 3285. (Act Aug. 23, 1912, c. 350, § 4.) System of efficiency ratings for classified service in Executive Departments based upon records; minimum ratings for promotion, demotion, and dismissal, subject to civil service rules; copies of records for Commission; retention of honorably discharged soldiers and sailors on reductions of force; removal from office and punishment for violation of section.

The Civil Service Commission shall, subject to the approval of the President, establish a system of efficiency ratings for the classified service in the several executive departments in the District of Columbia based upon records kept in each department and independent establishment with such frequency as to make them as nearly as possible records of fact. Such system shall provide a minimum rating of efficiency which must be attained by an employee before he may be promoted; it shall also provide a rating below which no employee may fall without being demoted; it shall further provide for a rating below which no employee may fall without being dismissed for inefficiency. All promotions, demotions, or dismissals shall be governed by provisions of the civil service rules. Copies of all records of efficiency shall be furnished by the departments and independent establishments to the Civil Service Commission for record in accordance with the provisions of this section: Provided, That in the event of reductions being made in the force in any of the executive departments no honorably discharged soldier or sailor whose record in said department is rated good shall be discharged or dropped, or reduced in rank or salary.

Any person knowingly violating the provisions of this section shall be summarily removed from office, and may also upon convic-
tion thereof be punished by a fine of not more than one thousand dollars or by imprisonment for not more than one year. (37 Stat. 413.)

This section was part of the legislative, executive, and judicial appropriation act for the fiscal year 1913, cited above.

Reports as to the establishment and maintenance of the system were required to be made by the Commission by provisions of Act March 4, 1913, c. 142, § 1, post, § 3286.

§ 3286. (Act March 4, 1913, c. 142, § 1.) Reports by Commission as to administrative needs of personnel in Executive Departments, etc., and as to system of efficiency ratings.

Establishment and maintenance of system of efficiency ratings for initial year: For the establishment and maintenance of system of efficiency ratings for initial year, $15,000, to be immediately available. The Civil Service Commission shall investigate and report to the President, with its recommendations, as to the administrative needs of the service relating to personnel in the several executive departments and independent establishments in the District of Columbia, and report to Congress details of expenditure and of progress of work hereunder at the beginning of each regular session:

Provided, That no person shall be employed hereunder at a compensation in excess of $4,000 per annum. (37 Stat. 750.)

These were provisions of the legislative, executive, and judicial appropriation act for the fiscal year 1914, cited above.

The establishment of the system of efficiency ratings mentioned in these provisions was authorized by Act Aug. 23, 1912, c. 350, § 4, ante, § 3285.

§ 3287. (Act Aug. 24, 1912, c. 389, § 6.) Removals from classified civil service only for cause, to promote efficiency; notice of charges, answer, etc.; record of removal, and copies thereof; membership in organization of postal employés for improving conditions, etc., not cause for reduction in rank, etc., or for removal; right to petition, etc., Congress, not to be denied.

No person in the classified civil service of the United States shall be removed therefrom except for such cause as will promote the efficiency of said service and for reasons given in writing, and the person whose removal is sought shall have notice of the same and of any charges preferred against him, and be furnished with a copy thereof, and also be allowed a reasonable time for personally answering the same in writing; and affidavits in support thereof; but no examination of witnesses nor any trial or hearing shall be required except in the discretion of the officer making the removal; and copies of charges, notice of hearing, answer, reasons for removal, and of the order of removal shall be made a part of the records of the proper department or office, as shall also the reasons for reduction in rank or compensation; and copies of the same shall be furnished to the person affected upon request, and the Civil Service Commission also shall, upon request, be furnished copies of the same:

Provided, however, That membership in any society, association, club, or other form of organization of postal employees not affiliated with any outside organization imposing an obligation or duty upon them to engage in any strike, or proposing to assist them (1808)
in any strike, against the United States, having for its objects, among other things, improvements in the condition of labor of its members, including hours of labor and compensation therefor and leave of absence, by any person or groups of persons in said postal service, or the presenting by any such person or groups or persons of any grievance or grievances to the Congress or any Member thereof shall not constitute or be cause for reduction in rank or compensation or removal of such person or groups of persons from said service. The right of persons employed in the civil service of the United States, either individually or collectively, to petition Congress, or any Member thereof, or to furnish information to either House of Congress, or to any committee or member thereof, shall not be denied or interfered with. (37 Stat. 555.)

This section was part of the postal service appropriation act for the fiscal year 1913, cited above.

(1309)
TITLE XIX A

OFFICIAL BONDS

This Title, inserted here as additional to the original titles of the Revised Statutes, includes provisions of acts subsequent to the Revised Statutes, relating to the custody, examination, and renewal of official bonds generally, liabilities of sureties on such bonds and surety or bonding companies as such sureties.

Sec. 3288. Custody of bonds.
3289. Examination of bonds, as to sufficiency of sureties.
3290. Renewal of bonds; liability of principal and sureties to continue until appointment and qualification of successor.
3291. Notice to sureties of delinquency of principal.
3292. Limitation of actions against sureties.
3293. Surety companies as sureties on bonds, etc.
3294. Appointment by companies of agents in judicial districts where suretyship is undertaken; service of process; filing power of attorney.
3295. Deposit of copy of charter and statement of assets and liabilities.
3296. Filing of quarterly statements of assets and liabilities; revocation of authority to transact business.
3297. Jurisdiction of suits on bonds.
3298. Nonpayment of judgment; forfeiture of right to do business.
3299. Estoppel to deny corporate powers.
3300. Failure to comply with provisions of act; penalty.
3301. Rate of premium on bond; premiums not to be paid by United States.

§ 3288. (Act March 2, 1895, c. 177, § 5.) Custody of bonds.

Hereafter all bonds of the Treasurer of the United States, collectors of internal revenue, collectors, naval officers, surveyors, and other officers of the customs, either as such officers or as disbursing officers of the Treasury, bonds of the Secretary of the Senate, Clerk of the House of Representatives, and the Sergeant-at-Arms of the House of Representatives, and all such bonds now on file in the office of the Comptroller of the Treasury shall be transmitted to the Secretary of the Treasury and filed as he may direct; and the duties now required by law of the Comptroller of the Treasury in regard to such bonds, as the successor of the Commissioner of Customs and First Comptroller of the Treasury shall hereafter be performed by the Secretary of the Treasury. (28 Stat. 807.)

This paragraph and the two paragraphs next following were part of section 5 of the legislative, executive, and judicial appropriation act for the fiscal year 1896, cited above.

The first paragraph of the section, preceding the provisions set forth here, relating to the custody of the oaths of certain customs officers, is set forth post, § 5334.

The office of Commissioner of Customs was abolished, and its duties were (1310)
§ 3289. (Act March 2, 1895, c. 177, § 5.) Examination of bonds, as to sufficiency of sureties.

Hereafter every officer required by law to take and approve official bonds shall cause the same to be examined at least once every two years for the purpose of ascertaining the sufficiency of the sureties thereon; and every officer having power to fix the amount of an official bond shall examine it to ascertain the sufficiency of the amount thereof and approve or fix said amount at least once in two years and as much oftener as he may deem it necessary. (28 Stat. 807.)

See note to preceding paragraph of this section, ante, § 3288.

§ 3290. (Act March 2, 1895, c. 177, § 5.) Renewal of bonds; liability of principal and sureties to continue until appointment and qualification of successor.

Hereafter every officer whose duty it is to take and approve official bonds shall cause all such bonds to be renewed every four years after their dates; but he may require such bonds to be renewed or strengthened oftener if he deem such action necessary. In the discretion of such officer the requirement of a new bond may be waived for the period of service of a bonded officer after the expiration of a four-year term of service pending the appointment and qualification of his successor: Provided, That the nonperformance of any requirement of this section on the part of any official of the Government shall not be held to affect in any respect the liability of principal or sureties on any bond made or to be made to the United States: Provided further, That the liability of the principal and sureties on all official bonds shall continue and cover the period of service ensuing until the appointment and qualification of the successor of the principal. And provided further, That nothing in this section shall be construed to repeal or modify section thirty-eight hundred and thirty-six of the Revised Statutes of the United States. (28 Stat. 807.)

See note to a preceding paragraph of this section, ante, § 3288.

R. S. § 3886, mentioned in this section, limiting the time of the liability of a postmaster's sureties, is set forth post, § 7196.

All disbursing officers of the Pay Department of the Army were required to renew their bonds or furnish additional security at least once in four years, by R. S. § 1192, ante, § 1967.

§ 3291. (Act Aug. 8, 1888, c. 787, § 1.) Notice to sureties of delinquency of principal.

Hereafter, whenever any deficiency shall be discovered in the accounts of any official of the United States, or of any officer disbursing or chargeable with public money, it shall be the duty of the accounting officers making such discovery to at once notify the head of the Department having control over the affairs of said officer of the nature and amount of said deficiency, and it shall
§ 3291. OFFICIAL BONDS (Tit. 19)

be the immediate duty of said head of Department to at once notify all obligors upon the bond or bonds of such official of the nature of such deficiency and the amount thereof. Said notification shall be deemed sufficient if mailed at the post-office in the city of Washington, District of Columbia, addressed to said sureties respectively, and directed to the respective post-offices where said obligors may reside, if known; but a failure to give or mail such notice shall not discharge the surety or sureties upon such bond. (25 Stat. 387.)

This section and the section next following were an act entitled "An act requiring notice of deficiency of accounts of principals to be given to sureties upon bonds of United States officers, and placing a limitation of time within which suits shall be brought against said sureties upon said bonds."

§ 3292. (Act Aug. 8, 1888, c. 787, § 2.) Limitation of actions against sureties.

If, upon the statement of the account of any official of the United States, or of any officer disbursing or chargeable with public money, by the accounting officers of the Treasury, it shall thereby appear that he is indebted to the United States, and suit therefor shall not be instituted within five years after such statement of said account, the sureties on his bond shall not be liable for such indebtedness. (25 Stat. 387.)

See note to preceding section.

§ 3293. (Act Aug. 13, 1894, c. 282, § 1.) Surety companies as sureties on bonds, etc.

Whenever any recognizance, stipulation, bond, or undertaking conditioned for the faithful performance of any duty, or for doing or refraining from doing anything in such recognizance, stipulation, bond, or undertaking specified, is by the laws of the United States required or permitted to be given with one surety or with two or more sureties, the execution of the same or the guaranteeing of the performance of the condition thereof shall be sufficient when executed or guaranteed solely by a corporation incorporated under the laws of the United States, or of any State having power to guarantee the fidelity of persons holding positions of public or private trust, and to execute and guarantee bonds and undertakings in judicial proceedings: Provided, That such recognizance, stipulation, bond, or undertaking be approved by the head of department, court, judge, officer, board, or body executive, legislative, or judicial required to approve or accept the same. But no officer or person having the approval of any bond shall exact that it shall be furnished by a guarantee company or by any particular guarantee company. (28 Stat. 279.)

This section and the seven sections next following were an act entitled "An act relative to recognizances, stipulations, bonds, and undertakings, and to allow certain corporations to be accepted as surety thereon."

§ 3294. (Act Aug. 13, 1894, c. 282, § 2.) Appointment by companies of agents in judicial districts where suretyship is undertaken; service of process; filing power of attorney.

No such company shall do business under the provisions of this Act beyond the limits of the State or Territory under whose laws (1312)
it was incorporated and in which its principal office is located, nor beyond the limits of the District of Columbia, when such company was incorporated under its laws or the laws of the United States and its principal office is located in said District, until it shall by a written power of attorney appoint some person residing within the jurisdiction of the court for the judicial district wherein such suretyship is to be undertaken, who shall be a citizen of the State, Territory, or District of Columbia, wherein such court is held, as its agent, upon whom may be served all lawful process against such company, and who shall be authorized to enter an appearance in its behalf. A copy of such power of attorney, duly certified and authenticated, shall be filed with the clerk of the district court of the United States for such district at each place where a term of such court is or may be held, which copy, or a certified copy thereof, shall be legal evidence in all controversies arising under this Act. If any such agent shall be removed, resign, or die, become insane, or otherwise incapable of acting, it shall be the duty of such company to appoint another agent in his place as hereinbefore prescribed, and until such appointment shall have been made, or during the absence of any agent of such company from such district, service of process may be upon the clerk of the court wherein such suit is brought, with like effect as upon an agent appointed by the company. The officer executing such process upon such clerk shall immediately transmit a copy thereof by mail to the company, and state such fact in his return. A judgment, decree, or order of a court entered or made after service of process as aforesaid shall be as valid and binding on such company as if served with process in said district. (28 Stat. 279.)


Every company, before transacting any business under this Act, shall deposit with the Secretary of the Treasury of the United States a copy of its charter or articles of incorporation, and a statement, signed and sworn to by its president and secretary, showing its assets and liabilities. If the said Secretary of the Treasury shall be satisfied that such company has authority under its charter to do the business provided for in this Act, and that it has a paid-up capital of not less than two hundred and fifty thousand dollars, in cash or its equivalent, and is able to keep and perform its contracts, he shall grant authority in writing to such company to do business under this Act. (28 Stat. 279. 36 Stat. 241.)

The amendment of this section and the section next following consisted in the substitution of the Secretary of the Treasury for the Attorney General, wherever the latter was mentioned in said sections as originally enacted.


Every such company shall, in the months of January, April, Ju-
§ 3296

OFFICIAL BONDS

(Tit. 19A)

ly, and October of each year, file with the said Secretary of the Treasury a statement, signed and sworn to by its president and secretary, showing its assets and liabilities, as is required by section three of this Act. And the said Secretary of the Treasury shall have the power, and it shall be his duty, to revoke the authority of any such company to transact any new business under this Act whenever in his judgment such company is not solvent or is conducting its business in violation of this Act. He may institute inquiry at any time into the solvency of said company and may require that additional security be given at any time by any principal when he deems such company no longer sufficient security. (28 Stat. 279. 36 Stat. 241.)

See note to preceding section.

§ 3297. (Act Aug. 13, 1894, c. 282, § 5.) Jurisdiction of suits on bonds.

Any surety company doing business under the provisions of this Act may be sued in respect thereof in any court of the United States which has now or hereafter may have jurisdiction of actions or suits upon such recognizance, stipulation, bond, or undertaking, in the district in which such recognizance, stipulation, bond, or undertaking was made or guaranteed, or in the district in which the principal office of such company is located. And for the purposes of this Act such recognizance, stipulation, bond, or undertaking shall be treated as made or guaranteed in the district in which the office is located, to which it is returnable, or in which it is filed, or in the district in which the principal in such recognizance, stipulation, bond, or undertaking resided when it was made or guaranteed. (28 Stat. 280.)


If any such company shall neglect or refuse to pay any final judgment or decree rendered against it upon such recognizance, stipulation, bond, or undertaking made or guaranteed by it under the provisions of this Act, from which no appeal, writ of error, or supersedeas has been taken, for thirty days after the rendition of such judgment or decree, it shall forfeit all right to do business under this Act. (28 Stat. 280.)

§ 3299. (Act Aug. 13, 1894, c. 282, § 7.) Estoppel to deny corporate powers.

Any company which shall execute or guarantee any recognizance, stipulation, bond, or undertaking under the provisions of this Act shall be estopped in any proceeding to enforce the liability which it shall have assumed to incur, to deny its corporate power to execute or guarantee such instrument or assume such liability. (28 Stat. 280.)

§ 3300. (Act Aug. 13, 1894, c. 282, § 8.) Failure to comply with provisions of act; penalty.

Any company doing business under the provisions of this Act which shall fail to comply with any of its provisions shall forfeit to the United States for every such failure not less than five hun-
dred dollars nor more than five thousand dollars, to be recovered by suit in the name of the United States in the same courts in which suit may be brought against such company under the provisions of this Act, and such failure shall not affect the validity of any contract entered into by such company. (28 Stat. 280.)

§ 3301. (Act Aug. 5, 1909, c. 7.) Rate of premium on bond; premiums not to be paid by United States.

Until otherwise provided by law no bond shall be accepted from any surety or bonding company for any officer or employee of the United States which shall cost more than thirty-five per centum in excess of the rate of premium charged for a like bond during the calendar year nineteen hundred and eight. Provided, That hereafter the United States shall not pay any part of the premium or other cost of furnishing a bond required by law or otherwise of any officer or employee of the United States. (36 Stat. 125.)

This was a provision, under the head "Department of Commerce and Labor," in the urgent deficiency appropriation act for the fiscal year 1909, cited above.
TITLE XX

FLAG AND SEAL

Sec. 3302. The flag to be thirteen stripes and thirty-seven stars.

Sec. 3304. Seal of the United States.

Sec. 3305. Secretary of State to keep and use the seal.

3303. A star to be added for every new State.

§ 3302. (R. S. § 1791.) The flag to be thirteen stripes and thirty-seven stars.

The flag of the United States shall be thirteen horizontal stripes, alternate red and white; and the union of the flag shall be thirty-seven stars, white in a blue field.


§ 3303. (R. S. § 1792.) A star to be added for every new State.

On the admission of a new State into the Union one star shall be added to the union of the flag; and such addition shall take effect on the fourth day of July then next succeeding such admission.

Act April 4, 1818, c. 34, § 2, 3 Stat. 415.

§ 3304. (R. S. § 1793.) Seal of the United States.

The seal heretofore used by the United States in Congress assembled is declared to be the seal of the United States.

Act Sept. 15, 1789, c. 14, § 3, 1 Stat. 68.

An appropriation to enable the Secretary of State to have the Great Seal of the United States recut was made by the deficiency appropriation acts for the fiscal years 1902 and 1903, Act July 1, 1902, c. 1351, 32 Stat. 552, and Act March 3, 1903, c. 1006, 32 Stat. 1032.

§ 3305. (R. S. § 1794.) Secretary of State to keep and use the seal.

The Secretary of State shall keep such seal, and shall make out and record, and shall affix the same to, all civil commissions for officers of the United States, to be appointed by the President, by and with the advice and consent of the Senate, or by the President alone. But the seal shall not be affixed to any commission before the same has been signed by the President of the United States, nor to any other instrument, without the special warrant of the President therefor.

Act Sept. 15, 1789, c. 14, § 4, 1 Stat. 68.

A provision that the Secretary of State should have the custody and charge of the seal of the United States was made by R. S. § 203, ante, § 301.

The President was authorized to make out and deliver, after adjournment of the Senate, commissions for all officers whose appointments have been advised and consented to by the Senate, by R. S. § 1773, ante, § 3249.

Provisions that commissions of officers under direction and control of the Secretary or other head of several of the Executive Departments should be made out and recorded in such Department, and the Department seal be affixed thereto, were made by Act March 28, 1896, c. 73, Act March 3, 1875, c. 131, § 14, Act Aug. 8, 1888, c. 786, and Act March 3, 1905, c. 1422, ante, §§ 3250-3253.

(1316)
TITLE XXI
SEAT OF GOVERNMENT, INCLUDING THE PUBLIC BUILDINGS AND GROUNDS, PARKS, AND RESERVATIONS

This Title of the "Revised Statutes of the United States" incorporated the previous statutes, relating to the seat of Government established in the District of Columbia, and the public buildings, grounds, etc., of the Government of the United States in the District. The then existing statutes for the government of the District were incorporated in a separate revision, constituting the "Revised Statutes Relating to District of Columbia." In accordance with this arrangement, all subsequent provisions of a nature similar or related to those originally contained in this Title are included under it in this compilation; but local provisions relating to the District of Columbia are excluded, as belonging more properly to a similar compilation which shall incorporate them with the separate revision of the former statutes relating to the District.

Provisions restricting the ownership by aliens of real estate in the Territories and in the District of Columbia, made by Act March 3, 1887, c. 340, 24 Stat. 476, amended by Act March 9, 1888, c. 30, 25 Stat. 45, and Act March 2, 1897, c. 363, 29 Stat. 618, and the further amendment of the last mentioned act so as to extend to aliens the same rights and privileges concerning real estate in the District of Columbia as by that act were conferred upon them in respect of real estate in the Territories, made by Act Feb. 23, 1905, c. 733, 33 Stat. 733, are placed under Title XXIII, "The Territories and Insular Possessions," Chapter 1, "Provisions Common to All the Territories," post, §§ 3490-3501.

This Title, as enacted in the Revised Statutes, was not divided into chapters. For convenience, the sections thereof remaining in force and subsequent provisions which relate to the public buildings and grounds other than the Capitol Building and grounds, and to public parks, reservations, wharves, etc., are placed in Chapter A; and sections of the Revised Statutes and provisions of subsequent acts relating only to the Capitol Building and Grounds are placed in Chapter B.

Chap. A. Public Buildings and Grounds, Parks, and Wharves......................... 3300
B. Capitol Building and Grounds...................................................... 3370

CHAPTER A
Public Buildings and Grounds, Parks and Wharves

Sec. 3306. Permanent seat of Government.
3307. Public offices to be exercised at seat of Government.
3308. Chief of Engineers to have charge of public buildings and grounds.
3309. Estimates and appropriations.
3310. Employees in office of public buildings.
3311. Chief of Engineers to have charge of Washington aqueduct.

Sec. 3312. Chief of Engineers to obey the President.
3313. How moneys for aqueduct, etc., to be expended.
3314. Unauthorized opening of pipes punishable.
3315. Willful, etc., breaking, etc., of pipes punishable.
3316. Laying of pipes for use of public buildings.

(1317)
Sec. 3317. Water in public buildings, when to be shut off.
3318. Maliciously making water impure punishable.
3319. Compensation of Chief of Engineers.
3320. Apartments, stationery, etc.
3321. Record of property to be kept.
3322. Authority, etc.
3323. Right of appeal to Secretary of War.
3324. Telegraph connecting public buildings; supervision; operation.
3325. Telegraph connecting public buildings; use of lines.
3326. Telegraph connecting public buildings; sale of condemned material or lines not needed.
3328. Superintendent of State, War, and Navy building; commission to have care and supervision of building.
3329. Duties of superintendent of State, War, and Navy building extended to annex buildings.
3330. Restriction on expenditures for production of electricity, from appropriations for buildings.
3331. Lighting, etc., lamps in public grounds; limitation of amount to be paid.
3332. Central heating, lighting, and power plants authorized; cross connection with Capitol power plant.
3333. Limitation on contracts of Board of Public Works.
3334. Improper appropriation of streets, etc.
3335. Permits by Commissioners of District of Columbia for extensions of buildings beyond building line up on streets, etc.
3336. Buildings, etc., not to be erected on reservations, parks, or public grounds without express authority of Congress.
3337. Laws of District of Columbia extended to public buildings and grounds belonging to United States.
3338. Watchmen in public squares and reservations to have same powers as police.
3339. Medical attendance for watchmen of public squares and reservations.

(1318)

Sec. 3341. Furniture for President’s House.
3342. Allantus trees prohibited.
3343. Trees, shrubs, etc., in greenhouses and nursery.
3344. Use of public buildings for public ceremonies forbidden.
3345. Use of public grounds for playgrounds.
3346. Licenses for temporary structures on reservations used as playgrounds.
3347. Licenses for boat-houses on banks of tidal reservoir on Potomac River.
3348. Advertisements and sales in or around Washington Monument forbidden.
3349. Fish ponds in Monument grounds; transfer of control.
3350. Jurisdiction over B street west of Virginia avenue transferred to Chief of Engineers.
3351. Jurisdiction over reservation 185 to be transferred to Commissioners of District for use as property yard.
3352. Street parking; jurisdiction and control vested in Commissioners of District of Columbia.
3353. Park system; control of Chief of Engineers; care and use of parking spaces.
3354. Buildings projecting beyond building line.
3355. Use of spaces or reservations for widening roadways.
3356. Transfers of jurisdiction between Chief of Engineers and Commissioners of District of Columbia.
3357. Regulations for care of public grounds.
3358. Application of regulations for care of public grounds extended to sidewalks, etc.
3359. Rock Creek Park; establishment.
3360. Rock Creek Park; control and regulations.
3361. Potomac Park; establishment.
3362. Parkway connecting Potomac Park with Zoological Park and Rock Creek Park.
3363. Small parks at intersection of streets outside limits of original city of Washington.
3364. Wharf property, wharves, etc.; control by Commissioners of District of Columbia.
3365. Regulation of wharf property, wharves, etc.; rent of wharves;
§ 3306. (R. S. § 1795.) Permanent seat of Government.
All that part of the territory of the United States included within the present limits of the District of Columbia shall be the permanent seat of Government of the United States.
Act July 16, 1790, c. 28, § 1, 1 Stat. 130.

§ 3307. (R. S. § 1796.) Public offices to be exercised at seat of Government.
All offices attached to the seat of Government shall be exercised in the District of Columbia, and not elsewhere, except as otherwise expressly provided by law.
Act July 16, 1790, c. 28, § 6, 1 Stat. 130.
The President was authorized to convene Congress at another place in case the prevalence of contagious sickness, or the existence of other circumstances, renders it hazardous to the lives or health of members to meet at the seat of Government, by R. S. § 34, ante, § 33.
The President was authorized to direct the removal of the public offices to another place, in case of the prevalence of a contagious or epidemic disease at the seat of Government, by R. S. § 4798, post, § 9180.
Adjournment of courts to another place in case a contagious or epidemic sickness renders it hazardous to hold a session at the seat of Government, was authorized by R. S. § 4799, post, § 9181.

§ 3308. (R. S. § 1797, as amended, Act April 28, 1902, c. 594.)
Chief of Engineers to have charge of public buildings and grounds.
The Chief of Engineers shall have charge of the public buildings and grounds in the District of Columbia, under such regulations as may be prescribed by the President, through the War Department, except those buildings and grounds which are otherwise provided for by law; and when it shall be made to appear to the said Chief of Engineers, or to the officer under his direction having immediate charge of said public buildings and grounds, that any person or persons is in unlawful occupation of any portion of said public lands in the District of Columbia, it shall be the duty of said officer in charge thereof to notify the marshal of the District of Columbia in writing of such unlawful occupation, and the said marshal shall thereupon cause the said trespasser or trespassers to be ejected from said lands, and shall restore possession of the same to the officer charged by law with the custody thereof.
This section, as enacted in the Revised Statutes, contained only the provision that the Chief of Engineers should have charge of public buildings and grounds ending with the words, "otherwise provided for by law." It was amended by the addition of the provisions beginning with the words, "and when it shall be made to appear," etc., to the end of the section as set forth (1319)
§ 3308  SEAT OF GOVERNMENT  (Tit. 21)

here, by a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1803, last cited above.

The use of public buildings, other than the Capitol and the White House, for public ceremonies was forbidden by a further provision of the same act, post, § 3344.

The temporary use of certain grounds and reservations for playgrounds was authorized by a provision of Act Aug. 30, 1890, c. 837, § 1, re-enacted by Act March 3, 1903, c. 1007, post, § 3345.

The officer in charge of public buildings and grounds was authorized to assume control of the fish ponds in the Monument grounds, the ground around them and the buildings upon the same, when abandoned by the Bureau of Fisheries, by a provision of Act June 30, 1906, c. 3612, § 1, post, § 3349.

The application of the rules prescribed by the Chief of Engineers, under Act July 1, 1898, c. 543, § 6, post, § 3357, to the public grounds placed by that act under his charge, was extended to the sidewalks around and to carriageways between such grounds, by a provision of Act March 4, 1909, c. 220, § 1, post, § 3338.

A Commission of Fine Arts, whose duty it shall be to advise upon the location of statues, fountains, and monuments in the public squares, streets, and parks in the District of Columbia, and upon the selection of models for such works and of artists for the execution of the same was established by Act May 17, 1910, c. 243, post, §§ 3367, 3368.

The officer in charge of the Capitol was designated "Superintendent of Capitol Building and Grounds" by Act Feb. 14, 1902, c. 17, post, § 3370.

Draping public buildings in mourning was forbidden by Act March 3, 1893, c. 211, § 3, post, § 6309.

§ 3309. (R. S. § 1798.) Estimates and appropriations.

All estimates for public buildings and grounds in charge of the Chief of Engineers shall be approved and submitted by the Secretary of War, through the Treasury Department, as other estimates, to the two Houses of Congress; and all appropriations which have been or may be hereafter made for repairs or improvements of the public buildings and grounds in the District of Columbia, and now in charge of the Chief of Engineers, shall be expended under the direction of the Secretary of War.


§ 3310. (R. S. § 1799.) Employée in office of public buildings.

The Chief of Engineers in charge of public buildings and grounds is authorized to employ in his office and about the public buildings and grounds under his control such number of persons for such employments, and at such rates of compensation, as may be appropriated for by Congress from year to year.


No compensation other than as fixed by this Title was to be allowed to any officer, employé, etc., embraced within its provisions, by R. S. § 1835, post, § 3421.

§ 3311. (R. S. § 1800.) Chief of Engineers to have charge of Washington aqueduct.

The Chief of Engineers shall have the immediate superintendence of the Washington aqueduct, together with all rights, appurtenances, and fixtures connected with the same, and belonging to the United States, and of all other public works and improvements in the Dis-
trict of Columbia in which the Government has an interest, and which are not otherwise specially provided for by law.


§ 3312. (R. S. § 1801.) Chief of Engineers to obey the President.
He shall obey, in the discharge of the duties mentioned in the preceding section, such regulations, pursuant to law, as may be prescribed by the President, through the Department of War.


§ 3313. (R. S. § 1802.) How moneys for aqueduct, etc., to be expended.
All moneys appropriated or hereafter appropriated for the Washington Aqueduct, and for the other public works in the District of Columbia, not otherwise expressly provided for by law, shall be expended under the direction of the Secretary of War.


§ 3314. (R. S. § 1803.) Unauthorized opening of pipes punishable.
No person, unless by consent of the Chief of Engineers in charge of the public buildings and works, shall tap or open the mains or pipes laid or hereafter to be laid by the United States, under a penalty of not less than fifty nor more than five hundred dollars.


§ 3315. (R. S. § 1804.) Willful, etc., breaking, etc., of pipes punishable.

Every person who maliciously breaks, injures, defaces, or destroys any main or pipe, bend, branch, valve, hydrant, service-pipe, or any other fixture used for the distribution of water throughout the streets and avenues, or for its introduction into the houses, tenements, or buildings of Washington and Georgetown, shall be punishable by imprisonment in the county jail for not more than two years.


§ 3316. (R. S. § 1805.) Laying of pipes for use of public buildings.

No greater number of main pipes of the Washington Aqueduct shall be laid at the expense of the United States than are sufficient to furnish the public buildings, offices, and grounds with the necessary supply of water. The cost of any main pipe, for the supply of water to the inhabitants of Washington and Georgetown, must be paid by the District of Columbia, in the manner provided by law.


§ 3317. (Act March 3, 1883, c. 143.) Water in public buildings, when to be shut off.
All officers in charge of public buildings in the District of Columbia shall cause the flow of water in the buildings under their charge to be shut off from five o'clock post meridian to eight o'clock ante meridian: Provided, That the water in said public
§ 3317  

SEAT OF GOVERNMENT  

buildings is not necessarily in use for public business. (22 Stat. 615.)

This was a provision of the sundry civil appropriation act for the fiscal year 1884, cited above.

§ 3318. (R. S. § 1806.) Maliciously making water impure punishable.

Every person who maliciously commits any act by reason of which the supply of water, or any part thereof, to the cities of Washington and Georgetown, becomes impure, filthy, or unfit for use, shall be fined not less than five hundred nor more than one thousand dollars, or imprisoned at hard labor in the District of Columbia not more than three years nor less than one year.


§ 3319. (R. S. § 1807.) Compensation of Chief of Engineers.

The Chief of Engineers shall receive no compensation, other than his regular pay as an officer of the Corps of Engineers, for the services required of him under the provisions of this Title.

Act March 3, 1859, c. 84, § 1, 11 Stat. 435.

§ 3320. (R. S. § 1808.) Apartments, stationery, etc.

He shall be furnished official apartments in one of the public buildings in the city of Washington, as may be directed by the President, and shall be supplied by the Government with stationery, instruments, books, and furniture which may be required for the performance of his duties.

Act March 3, 1859, c. 84, § 1, 11 Stat. 435.

§ 3321. (R. S. § 1809.) Record of property to be kept.

He shall keep in his office a complete record of all the lands and other property connected with or belonging to the Washington Aqueduct and other public works under his charge, together with accurate plans and surveys of the public grounds and reservations in the District of Columbia.

Act March 3, 1859, c. 84, § 1, 11 Stat. 435.

§ 3322. (R. S. § 1810.) Authority, etc.

He and his necessary assistants are empowered to use all lawful means for the discharge of their duties; and, particularly, he shall have full control over the Washington Aqueduct, to regulate the manner in which the authorities of the District of Columbia may tap the supply of water to the inhabitants thereof; and he shall stop the same whenever it is found to be no more than adequate to the wants of the public buildings and grounds.


§ 3323. (R. S. § 1811.) Right of appeal to Secretary of War.

His decision on all questions concerning the supply of water, as provided in the preceding section, shall be subject to appeal to the Secretary of War only.

Act March 3, 1859, c. 84, § 1, 11 Stat. 435.

(1322)
§ 3324. (Act Feb. 4, 1874, c. 22.) Telegraph connecting public buildings; supervision; operation.

That the lines of telegraph, connecting the Capitol with the various Departments in Washington, constructed under and by virtue of the act of Congress approved March third, eighteen hundred and seventy-three, entitled "An act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-four, and for other purposes," be, and the same are hereby, placed under the supervision of the officer in charge of the public buildings and grounds; and that the said officer be authorized and empowered to make rules and regulations for the working of said lines. And the Secretary or Head of each Executive Department, and the Congressional Printer, are hereby authorized to detail one person from their present force of employees to operate the instruments in said Departments and printing office, and each House of Congress may provide for the employment of an operator in their respective wings of the Capitol, at a compensation not exceeding one hundred dollars per month, during the sessions of Congress. (18 Stat. 14.)

This was an act entitled "An act in relation to the lines of telegraph connecting the Capitol with the various departments of the Government."

Act March 3, 1873, c. 227, 17 Stat. 519, referred to in this act, made an appropriation "for connecting the Capitol by telegraph, to be solely for public business, with all the departments of Government and the Government Printing Office in the City of Washington."

The use of the lines of telegraph mentioned in this act was regulated by Act March 7, 1874, c. 30, set forth post, § 3325.

The sale of condemned material and lines not needed was authorized by a provision of Act March 3, 1879, c. 182, set forth post, § 3326.

Willful or malicious injury to telegraph or telephone lines controlled by the United States was punishable by Act June 23, 1874, c. 461, which was incorporated into the Criminal Code, § 60, post, § 10228.

§ 3325. (Act March 7, 1874, c. 50.) Telegraph connecting public buildings; use of lines.

Said lines of telegraph shall be for the use only of Senators, Members of Congress, Judges of the United States courts, and officers of Congress and of the Executive Departments, and solely on public business. (18 Stat. 20.)

This was a proviso annexed to an appropriation to pay the telegraph operators employed under Act Feb. 4, 1874, c. 22, set forth ante, § 3324, made by the act cited above.

§ 3326. (Act March 3, 1879, c. 182.) Telegraph connecting public buildings; sale of condemned material or lines not needed.

Telegraph to connect the Capitol with the departments and the Government Printing Office: * * The engineer in charge of public buildings and grounds is hereby authorized to sell any condemned material or lines not needed by the departments, and cover the proceeds in the Treasury. (20 Stat. 388.)

This was a provision of the sundry civil appropriation act for the fiscal year 1880, cited above.

The provision omitted was an appropriation for care and repair of the telegraph mentioned.

The Chief of Engineers shall, as Superintendent of Public Buildings and Grounds, and as Superintendent of the Washington Aqueduct, annually submit the following reports to the Secretary of War in time to accompany the annual message of the President to Congress, namely:

First. A report of his operations for the preceding year, with an account of the manner in which all appropriations for public buildings and grounds have been applied, including a statement of the number of public lots sold, or remaining unsold each year, of the condition of the public buildings and grounds, and of the measures necessary to be taken for the care and preservation of all public property under his charge.

Second. A report of the condition, progress, repairs, casualties, and expenditures of the Washington Aqueduct and other public works under his charge.


The printing of additional copies of the reports on the improvement and care of the public buildings and grounds, and the care, etc., of the Washington Monument, was provided for by Res. June 2, 1900, No. 30, post, § 7100.

§ 3328. (Act March 3, 1883, c. 128, § 1.) Superintendent of State, War, and Navy building; commission to have care and supervision of building.

The President is hereby authorized and directed to designate from the Engineer Corps of the Army or the Navy, an officer well qualified for the purpose, who shall be detailed to act as superintendent of the completed portions of the State, War, and Navy Department building, under direction of the Secretaries of State, War, and Navy, who are hereby constituted a commission for the purposes of the care and supervision of said building, as hereinafter specified. Said officer shall have charge of said building, and all the engines, machinery, steam and water supply, heating, lighting, and ventilating apparatus, elevators, and all other fixtures in said building, and all necessary repairs and alterations thereof, as well as the direction and control of such force of engineers, watchmen, laborers, and others engaged about the building or the apparatus under his supervision; of the cleaning of the corridors and water closets; of the approaches, sidewalks, lawns, court-yards, and areas of the building, and of all rooms in the sub-basement which contain the boilers and other machinery, or so much of said rooms as may be indispensable to the proper performance of his duties as herein provided. (22 Stat. 553.)

This was a provision preceding an appropriation for the office of superintendent made by the legislative, executive, and judicial appropriation act for the fiscal year 1884, cited above. Appropriations for the office are made by similar acts for subsequent years. The provision for the fiscal year 1914 was by Act March 4, 1913, c. 142, § 1, 37 Stat. 767.

(1324)
§ 3329. (Act May 22, 1908, c. 186, § 1.) Duties of superintendent of State, War, and Navy building extended to annex buildings. The superintendent of the State, War, and Navy building shall also act as superintendent of the Navy Department Annex, or Mills Building, and the State Department Annex building. (35 Stat. 218.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1909, cited above.

§ 3330. (Act March 4, 1907, c. 2918, § 9.) Restriction on expenditures for production of electricity, from appropriations for buildings.

No appropriation heretofore or hereafter made for the construction or equipment of any executive or municipal building in the District of Columbia shall be expended for the production of electricity for light or power, unless, in the judgment of the Secretary of the Treasury, such necessary electric current for light and power can not be obtained at a less cost. (34 Stat. 1371.)

This section was part of the sundry civil appropriation act for the fiscal year 1908, cited above.

§ 3331. (Act March 4, 1911, c. 285, § 1.) Lighting, etc., lamps in public grounds; limitation of amount to be paid.

Hereafter no greater sum shall be paid any company for lighting any gas or electric lamp in the public grounds, or for installing or moving the same, than is paid by the District of Columbia for similar services, and no contract shall be required to be entered into for lighting the public grounds. (36 Stat. 1404.)

This was a provision of the sundry civil appropriation act for the fiscal year 1912, cited above.

§ 3332. (Act June 23, 1913, c. 3, § 1.) Central heating, lighting, and power plants authorized; cross connection with Capitol power plant.

The Secretary of the Treasury is authorized and directed to have constructed, under the direction of the Supervising Architect of the Treasury, upon the land and wharf property of the United States hereinafter described, a central heating, lighting, and power plant, to furnish heat, light, and power for the buildings, old and new, of the Bureau of Engraving and Printing, the buildings of the Department of Agriculture, the Treasury Building, the White House and the buildings on the grounds thereof, the State, War, and Navy Building, the Winder Building, the Mills Building, the Court of Claims Building, the buildings, old and new, of the National Museum, the Smithsonian Institution Building, the Army Medical Museum Building, the Fish Commission Building, the Washington Monument, the District Building, the Post Office Department Building, and the buildings, when constructed on the site heretofore acquired, for each of the Departments of State, Justice, and Commerce and Labor.

The total limit of cost of such central heating, lighting, and power plant, including all necessary buildings, boilers, engines, generators, pumps, machinery appliances and equipment, tunnels, ducts, and so forth, is fixed at not to exceed the sum of $1,494,104, and (1325)
the Secretary of the Treasury is authorized to enter into contracts to the full limit of cost hereby fixed.

Authority is given for making a cross connection between the central heating, lighting, and power plant aforesaid and the Capitol power plant, so that either plant may supply to the other electric energy in case of a breakdown or other emergency, such connection to be equipped with the necessary meters so that reimbursement may be made for the amount of current actually supplied by either of said plants to the other. (38 Stat. 25.)

These were provisions of the sundry civil appropriation act for the fiscal year 1914, cited above.

Provisions relating to the maintenance and operation of the Capitol power plant, a cross connection with which was authorized by the last paragraph of these provisions, made by Act March 4, 1911, c. 260, § 1, are set forth post. § 3385.

§ 3333. (R. S. § 1813.) Limitation on contracts of Board of Public Works.

The Board of Public Works of said District are prohibited from incurring or contracting liabilities on behalf of the United States in the improvement of streets, avenues, and reservations beyond the amount of appropriations previously made by Congress, and from entering into any contract touching such improvements on behalf of the United States, except in pursuance of appropriations made by Congress.

Act March 8, 1873, c. 227, § 1, 17 Stat. 526.

The Board of Public Works, mentioned in this section, was abolished, with other offices of the District of Columbia existing before the Revised Statutes, by Act June 20, 1874, c. 337, 18 Stat. 116, which authorized the appointment of a commission consisting of three persons, who should exercise all the power and authority previously vested in the Governor or Board of Public Works of the District, and made further provisions for the government of the District.

(R. S. §§ 1814–1816. Transferred to Chapter B.)

R. S. § 1814, provided for the use of the old hall of the House of Representatives as a national statuary hall. R. S. § 1815, prohibited the exhibition in the Capitol building of any statuary, painting, etc., the property of an individual. R. S. § 1816, regulated the making of improvements, repairs, etc., of the Capitol building. All these sections are placed, with other provisions relating to the Capitol building, under Chapter B of this Title, post, §§ 3373, 3383, 3387.

(R. S. § 1817. Superseded.)

This section provided that the electrical apparatus for lighting the hall of the House, the dome, the rotunda, and the old Hall of Representatives should be in charge of the chief engineer of the House of Representatives, subject to the control and supervision of the Architect of the Capitol and the Chief of Engineers in charge of public buildings and grounds. It was superseded by the provisions of Act Apr. 15, 1876, c. 257, § 1, and Act March 3, 1881, c. 130, § 1, post, §§ 3374, 3377.

§ 3334. (R. S. § 1818.) Improper appropriation of streets, etc.

The Secretary of the Interior is directed to prevent the improper appropriation or occupation of any of the public streets, avenues, squares, or reservations in the city of Washington, belonging to the United States, and to reclaim the same if unlawfully appropriated; and particularly to prevent the erection of any permanent building upon any property reserved to or for the use of the United States, (1826)
unless plainly authorized by act of Congress, and to report to Congress at the commencement of each session his proceedings in the premises, together with a full statement of all such property, and how, and by what authority, the same is occupied or claimed. Nothing herein contained shall be construed to interfere with the temporary and proper occupation of any portion of such property, by lawful authority, for the legitimate purposes of the United States.


The erection of trespassers on public grounds was provided for by the amendment of R. S. § 1797, by Act April 26, 1902, c. 594, ante, § 3308.

Permits granted by the Commissioners of the District of Columbia for extensions of buildings beyond the building line upon the streets, etc., were ratified, and the granting of such permits thereafter was regulated, by a provision of Act March 3, 1891, c. 540, post, § 3335, and the operation of that provision was extended to the entire District of Columbia, by Act July 1, 1898, c. 543, § 3, post, § 3352.

The erection of buildings or structures on reservations, parks, or public grounds, without express authority of Congress, was forbidden by Act Aug. 24, 1912, c. 355, § 1, ante, § 3336.

§ 3335. (Act March 3, 1891, c. 540.) Permits by Commissioners of District of Columbia for extensions of buildings beyond building line upon streets, etc.

The action of the Commissioners of the District of Columbia in heretofore granting permits for the extension of any building or buildings, or any part or parts thereof, in the city of Washington, in the District of Columbia, beyond the building line, and upon the streets and avenues of said city, is hereby ratified, without prejudice, however, to the legal rights of the Government in the event of the destruction by fire, or otherwise, of any such structure. And hereafter no such permits shall be granted except upon special application and with the concurrence of all of said Commissioners, and the approval of the Secretary of War. (26 Stat. 868.)

This was a provision of the deficiency appropriation act for the fiscal year 1891, cited above.

The provision of this act that no such permits should be granted except upon special application and with the concurrence of all said commissioners, and the approval of the Secretary of War, was not affected by the subsequent act to vest in the Commissioners of the District the control of street parking in the District, etc., and the operation of this provision was extended to the entire District of Columbia, by section 3 of said subsequent act, Act July 1, 1898, c. 543, § 3, post, § 3354.

§ 3336. (Act Aug. 24, 1912, c. 355, § 1.) Buildings, etc., not to be erected, on reservations, parks, or public grounds without express authority of Congress.

Hereafter there shall not be erected on any reservation, park, or public grounds, of the United States within the District of Columbia, any building or structure without express authority of Congress. (37 Stat. 444.)

This was a provision of the sundry civil appropriation act for the fiscal year 1913, cited above.

(R. S. §§ 1819–1827. Transferred to Chapter B.)

These sections provided for preservation of the public peace in and protection of the Capitol Building and grounds, regulated their use, established and prescribed the authority and duties of the Capitol police, and provided for su-
perintendence, etc., of the Botanical Garden. They are placed, with other provisions relating to the Capitol Building and Grounds and the Botanical Garden, under Chapter B of this Title, post, §§ 3391, 3392, 3406, 3408, 3409, 3411, 3412, 3416, 3417.


The provisions of the several laws and regulations within the District of Columbia for the protection of public or private property and the preservation of peace and order be, and the same are hereby, extended to all public buildings and public grounds belonging to the United States within the District of Columbia. And any person guilty of disorderly and unlawful conduct in or about the same, or who shall willfully injure the buildings or shrubs, or shall pull down, impair, or otherwise injure any fence, wall, or other enclosure, or shall injure any sink, culvert, pipe, hydrant, cistern, lamp, or bridge, or shall remove any stone, gravel, sand, or other property of the United States, or any other part of the public grounds or lots belonging to the United States in the District of Columbia, shall, upon conviction thereof, be fined not more than fifty dollars. (27 Stat. 325.)

This section was part of an act entitled "An act for the preservation of the public peace and the protection of property within the District of Columbia."

Other sections of the act define and punish various offenses within the District.

Previous provisions that the duties and authority of the former Board of Metropolitan Police of the District of Columbia, for police purposes, should extend to all public squares and places, and authorizing and requiring said board to make appropriate rules and regulations in relation thereto, were made by Act March 3, 1875, c. 130, § 1, 18 Stat. 385, and were repeated in Act July 31, 1876, c. 246, 19 Stat. 110, and Act March 3, 1877, c. 106, 19 Stat. 340. The powers and duties exercised by the Board were transferred to the Commissioners of the District of Columbia by Act June 11, 1878, c. 150, § 6, 20 Stat. 107.

Watchmen in public squares and reservations were given the same powers as the Metropolitan Police by Act Aug. 5, 1882, c. 389, post, § 3338.

Provisions for extending laws and regulations of the District of Columbia for preservation of public peace, etc., to the Capitol Square, when requested by the presiding officer of either House of Congress, or by the Chief of Engineers in charge of public buildings and grounds, was made by R. S. § 1819, post, § 3302.

§ 3338. (Act Aug. 5, 1882, c. 389). Watchmen in public squares and reservations to have same powers as police.

Hereafter all watchmen provided for by the United States Government for service in any of the public squares and reservations in the District of Columbia shall have and perform the same powers and duties as the Metropolitan police of said District. (22 Stat. 243.)

This was a provision annexed to the appropriation for pay of watchmen, in the legislative, executive, and judicial appropriation act for the fiscal year 1883, cited above.

See notes to Act July 29, 1892, c. 320, § 15, ante, § 3337.

Watchmen of the Department of Agriculture in and upon the buildings and premises of the Department were to have the same powers and duties (1328)
as the Metropolitan Police of the District of Columbia, by a provision of Act March 4, 1900, c. 301, ante, § 825.

§ 3339. (Act April 28, 1902, c. 594.) Medical attendance for
watchmen of public squares and reservations.

The park watchmen now provided for under the above heading of public buildings and grounds, and those that may hereafter be provided for by law for service in any of the public squares and reservations in the District of Columbia, shall receive free medical attendance, the same as the Metropolitan Police of said District. (32 Stat. 152.)

This was a provision, under the heading "Public Buildings and Grounds," of the legislative, executive, and judicial appropriation act for the fiscal year 1903, cited above.


The warden of the penitentiary of the United States for the District of Columbia shall make to the Secretary of the Interior, annually, in time to accompany the annual message of the President to Congress, a report of his operations during the preceding year, and of the manner in which all appropriations have been applied.


§ 3341. (R. S. § 1829.) Furniture for President's House.

All furniture purchased for the use of the President's House shall be, as far as practicable, of domestic manufacture.

Act May 22, 1826, c. 154, § 2, 4 Stat. 194.

Similar provisions for preference of American goods in the purchase of articles for the use of Congress were made by R. S. § 60, ante, § 95.

§ 3342. (R. S. § 1830.) Ailanthus trees prohibited.

No more ailanthus trees shall be purchased for or planted in the public grounds.

Act March 3, 1853, c. 97, § 1, 10 Stat. 207.

§ 3343. (Act June 20, 1878, c. 359, § 1.) Trees, shrubs, etc., in green-houses and nursery.

Buildings and grounds in and around Washington. * * Hereafter only such trees, shrubs, and plants shall be propagated at the greenhouses and nursery as are suitable for planting in the public reservations, to which purpose only the said productions of the greenhouses and nursery shall be applied. (20 Stat. 220.)

This was a provision containing an appropriation, which is omitted here, for care of green-house and nursery in the sundry civil appropriation act for the fiscal year 1879, cited above.

§ 3344. (Act April 28, 1902, c. 594.) Use of public buildings for public ceremonies forbidden.

That hereafter no public building, or the approaches thereto, other than the Capitol building and the White House, in the District of Columbia, shall be used or occupied in any manner whatever in connection with ceremonies attending the inauguration of President of the United States, or other public function, except as may hereafter be expressly authorized by law. (32 Stat. 152.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1903, cited above.

Comp. St. '13—54 (1329)
§ 3345. (Act March 3, 1903, c. 1007.) Use of public grounds for playgrounds.

The officer in charge of public buildings and grounds may hereafter authorize the temporary use of the Monument Grounds or grounds south of the Executive Mansion or other reservations in the District of Columbia for playgrounds for children and adults, under regulations to be prescribed by him. (32 Stat. 1122.)

This was a provision of the sundry civil appropriation act for the fiscal year 1904, cited above, which re-enacted a similar provision of Act Aug. 30, 1890, c. 837, § 1, 26 Stat. 396, making the provision permanent in form by the insertion of the word "hereafter," and extending its language to include playgrounds for children and adults.

The erection of temporary structures upon reservations used as children's playgrounds was authorized by a provision of Act May 27, 1908, c. 200, § 1, post, § 3346.

The Capitol police were required to prevent the use of the Capitol grounds as play-grounds, so far as necessary to protect the property from injury, by Act April 29, 1876, c. 86, post, § 3415.

§ 3346. (Act May 27, 1908, c. 200, § 1.) Licenses for temporary structures on reservations used as playgrounds.

The officer in charge of public buildings and grounds is authorized to grant licenses, revocable by him, without compensation, to erect temporary structures upon reservations used as children's playgrounds, under such regulations as he may impose. (35 Stat. 355.)

This was a provision of the sundry civil appropriation act for the fiscal year 1908, cited above.

§ 3347. (Act May 27, 1908, c. 200, § 1.) Licenses for boat-houses on banks of tidal reservoir on Potomac River.

Licenses may be granted for the erection of boat-houses along the banks of the tidal reservoir on the Potomac River fronting Potomac Park, under regulations to be prescribed by the Chief of Engineers, and that all such licenses granted under this authority shall be revocable, without compensation, by the Secretary of War. (35 Stat. 355.)

This was also a provision of the sundry civil appropriation act for the fiscal year 1909, cited above.

§ 3348. (Act March 4, 1909, c. 299, § 1.) Advertisements and sales in or around Washington Monument forbidden.

Washington Monument: For the care and maintenance of the Washington Monument: * * *: Provided, That hereafter no advertisement of any kind shall be displayed and no articles of any kind shall be sold in or around the Monument, except upon the written authority of the Secretary of War. (35 Stat. 997.)

This was a provision containing an appropriation, which is omitted here, for care and maintenance of the Washington Monument in the sundry civil appropriation act for the fiscal year 1910, cited above.

Previous provisions relating to the same subject, contained in Act May 27, 1908, c. 200, § 1, 35 Stat. 357, and Act Feb. 9, 1909, c. 101, 35 Stat. 615, were superseded by this provision.

§ 3349. (Act June 30, 1906, c. 3912, § 1.) Fish ponds in Monument grounds; transfer of control.

For the care of the fish ponds in the Monument grounds, the
ground around them and the buildings upon the same, during the fiscal year ending June thirtieth, nineteen hundred and seven. * *:
Provided, That when said ponds, ground, and buildings, are abandoned by the Bureau of Fisheries, the officer in charge of public buildings and grounds is authorized to assume control of them and of any balance of the sum hereby appropriated that may remain unexpended at the date of said transfer. (34 Stat. 659.)

This was a provision making an appropriation, which, is omitted here, of the deficiency appropriation act for the fiscal year 1906, cited above.

§ 3350. (Act May 27, 1908, c. 200, § 1.) Jurisdiction over B street west of Virginia avenue transferred to Chief of Engineers.

The jurisdiction over that portion of B street west of Virginia avenue, now under the control of the Commissioners of the District of Columbia, is hereby transferred to the Chief of Engineers, United States Army. (35 Stat. 356.)

This was a provision of the sundry civil appropriation act for the fiscal year 1909, cited above.

§ 3351. (Act May 18, 1910, c. 248.) Jurisdiction over reservation 185 to be transferred to Commissioners of District for use as property yard.

The Chief of Engineers of the United States Army is hereby authorized and directed to transfer to the Commissioners of the District of Columbia the control and jurisdiction over reservation one hundred and eighty-five, to be used by said District as a property yard: Provided, That when in the judgment of the Chief of Engineers of the United States Army the use of said reservation for park purposes is desirable, the Commissioners of the District of Columbia, upon his request, are authorized and directed to retransfer said reservation to his jurisdiction. (36 Stat. 383.)

This was a provision of the District of Columbia appropriation act for the fiscal year 1911, cited above.

§ 3352. (Act July 1, 1898, c. 543, § 1.) Street parking; jurisdiction and control vested in Commissioners of District of Columbia.

The jurisdiction and control of the street parking in the streets and avenues of the District of Columbia is hereby transferred to and vested in the Commissioners of the District of Columbia. (30 Stat. 570.)

This section and the five sections next following were an act entitled “An act to vest in the Commissioners of the District of Columbia control of street parking in said district.”

§ 3353. (Act July 1, 1898, c. 543, § 2, as amended, Act April 14, 1906, c. 1622.) Park system; control of Chief of Engineers; care and use of parking spaces.

The park system of the District of Columbia is hereby placed under the exclusive charge and control of the Chief of Engineers of the United States Army, under such regulations as may be pre-
scribed by the President of the United States, through the Secretary of War.

The said park system shall be held to comprise:

(a) All public spaces laid down as reservations on the map of eighteen hundred and ninety-four accompanying the annual report for eighteen hundred and ninety-four of the officer in charge of public buildings and grounds:

(b) All portions of the space in the streets and avenues of the said District, after the same shall have been set aside by the Commissioners of the District of Columbia for park purposes.

Provided, That no areas less than two hundred and fifty square feet between sidewalk lines shall be included within the said park system, and no improvements shall be made in unimproved public spaces in streets between building lines or building lines prolonged until the outlines of such portions as are to be improved as parks shall have been laid out by the Commissioners of the District of Columbia: And provided further, That the Chief of Engineers is authorized temporarily to turn over the care of any of the parking spaces included in Classes (a) and (b) above, to private owners of adjoining lands under such regulations as he may prescribe and with the condition that the said private owners shall pay special assessments for improvements contiguous to such parking, under the same regulations as are or may be prescribed for private lands: And provided further, That wherein any portion of a street more than one-half of the front is occupied and used for business purposes, the Commissioners are authorized and directed to denominate such portion of the street as a business street and shall authorize the use for business purposes by abutting property owners of so much of the sidewalk and parking as may not be needed, in the judgment of the said Commissioners, by the general public, under such general regulations as the said Commissioners may prescribe. (30 Stat. 570. 34 Stat. 112.)

In this section, as originally enacted, the second proviso began with the words: "That the Chief of Engineers is authorized temporarily to turn over the care of any of the parking spaces included in Class 'B' above." It was amended by striking out the words "Class 'B,'" and substituting therefor the words "Classes (a) and (b)," to read as set forth here, by Act April 14, 1908, c. 1022, last cited above.

Jurisdiction over that portion of B street west of Virginia avenue was transferred from the Commissioners of the District to the Chief of Engineers, by a provision of Act May 27, 1908, c. 200, § 1, ante, § 3350.

Jurisdiction over reservation 185 was to be transferred by the Chief of Engineers to the Commissioners of the District, to be used by the District as a property yard, by a provision of Act May 18, 1910, c. 248, ante, § 3351.

§ 3354. (Act July 1, 1898, c. 543, § 3.) Buildings projecting beyond building line.

This Act shall not affect in any manner the provisions in the Act of March third, eighteen hundred and ninety-one, entitled "An Act making appropriations to supply deficiencies in the appropriations for the fiscal year ending June thirtieth, eighteen hundred and ninety-one, and for prior years, and for other purposes," that no permits for projections beyond the building line on the streets and
avenues of the city of Washington shall be granted except upon special application and with the concurrence of all said Commissioners
and the approval of the Secretary of War; and the operation of said
provision is hereby extended to the entire District of Columbia.
(30 Stat. 570.)

The provisions of Act March 3, 1891, c. 540, mentioned in, and the operation
of which was extended by, this section, are set forth ante, § 3335.

§ 3355. (Act July 1, 1898, c. 543, § 4.) Use of spaces or reservations for widening roadways.

When, in the judgment of the Commissioners of the District of
Columbia, the public necessity or convenience requires them to en-
ter upon any of the spaces or reservations under the jurisdiction of
the Chief of Engineers, for the purpose of widening the roadway
of any street or avenue adjacent thereto or to establish sidewalks
along the same, the Chief of Engineers, with the approval of the
Secretary of War, is authorized to grant the necessary permission
upon the application of the Commissioners. (30 Stat. 570.)

§ 3356. (Act July 1, 1898, c. 543, § 5.) Transfers of jurisdiction between Chief of Engineers and Commissioners of District of Columbia.

When in accordance with law or mutual legal agreement, spaces
or portions of public land are transferred from the jurisdiction of
the Chief of Engineers of the United States Army, as established
by this Act to that of the Commissioners of the District of Colum-
bia, or vice versa, the letters exchanged between them of transfer
and acceptance shall be sufficient authority for the necessary
change in the official maps and for record when necessary. (30 Stat.
570.)

§ 3357. (Act July 1, 1898, c. 543, § 6.) Regulations for care of public grounds.

The said Chief of Engineers and the said Commissioners are
hereby authorized to make all needful rules and regulations for
the government and proper care of all the public grounds placed
by this Act under their respective charge and control; and to an-
nex to such rules and regulations such reasonable penalties as will
secure their enforcement. (30 Stat. 571.)

The application of the regulations prescribed under this section was extended
to sidewalks around public grounds and carriageways between public grounds,
by a provision of Act March 4, 1909, c. 299, § 1, post, § 3358.

§ 3358. (Act March 4, 1909, c. 299, § 1.) Application of regulations for care of public grounds extended to sidewalks, etc.

The application of the rules and regulations heretofore prescribed
or that may be hereafter prescribed by the Chief of Engineers,
United States Army, under the authority granted by section six of an
Act of Congress approved July first, eighteen hundred and ninety-
eight, for the government and proper care of all public grounds placed
by that Act under the charge and control of the said Chief of Engi-
neers, is hereby extended to cover the sidewalks around the public
(1333)
§ 3358  

SEAT OF GOVERNMENT  

(Tit. 21

grounds and the carriageways of such streets as lie between and separate the said public grounds. (35 Stat. 994.)

This was a provision of the sundry civil appropriation act for the fiscal year 1910, cited above.

Act July 1, 1898, c. 543, § 6, mentioned in this provision, is set forth ante, § 3357.

§ 3359. (Act Sept. 27, 1890, c. 1001, § 1.) Rock Creek Park; establishment.

A tract of land lying on both sides of Rock Creek, beginning at Klingle Ford Bridge, and running northwardly, following the course of said creek, of a width not less at any point than six hundred feet, nor more than twelve hundred feet, including the bed of the creek, of which not less than two hundred feet shall be on either side of said creek, south of Broad Branch road and Blagden Mill road and of such greater width north of said roads as the commissioners designated in this act may select, shall be secured, as hereinafter set out, and be perpetually dedicated and set apart as a public park or pleasure ground for the benefit and enjoyment of the people of the United States, to be known by the name of Rock Creek Park; Provided, however, That the whole tract so to be selected and condemned under the provisions of this act shall not exceed two thousand acres nor the total cost thereof exceed the amount of money herein appropriated. (26 Stat. 492.)

This was the first section of an act entitled “An act authorising the establishment of a public park in the District of Columbia.”

Sections 2–6 of the act created a commission to select the land for a park, and provided for the survey and acquisition thereof by purchase or condemnation, the assessment of the cost and expenses on the lands benefited, the collection of the assessments and the disposition of the proceeds thereof, and made an appropriation for the expenses. They are omitted as temporary merely, and executed.

Section 7 of the act is set forth post, § 3360.

§ 3360. (Act Sept. 27, 1890, c. 1001, § 7.) Rock Creek Park; control and regulations.

The public park authorized and established by this act shall be under the joint control of the Commissioners of the District of Columbia and the Chief of Engineers of the United States Army, whose duty it shall be, as soon as practicable, to lay out and prepare roadways and bridle paths, to be used for driving and for horseback riding, respectively, and footways for pedestrians; and whose duty it shall also be to make and publish such regulations as they deem necessary and proper for the care and management of the same. Such regulations shall provide for the preservation from injury or spoliation of all timber, animals, or curiosities within said park, and their retention in their natural condition, as nearly as possible. (26 Stat. 495.)

The park system of the District of Columbia was placed under the exclusive charge and control of the Chief of Engineers by Act July 1, 1898, c. 543, § 2, ante, § 3353, and said Chief of Engineers and the Commissioners of the District of Columbia were authorised to make all needful regulations by section 6 of that act, ante, § 3357.

(1334)
§ 3361. (Act March 3, 1897, c. 375.) Potomac Park; establishment.

The entire area formerly known as the Potomac Flats and now being reclaimed, together with the tidal reservoirs, be, and the same are hereby, made and declared a public park, under the name of the Potomac Park, and to be forever held and used as a park for the recreation and pleasure of the people. (29 Stat. 624.)

This was an act entitled "An act declaring the Potomac Flats a public park under the name of the Potomac Park."

§ 3362. (Act March 4, 1913, c. 147, § 22.) Parkway connecting Potomac Park with Zoological Park and Rock Creek Park.

For the purpose of preventing the pollution and obstruction of Rock Creek and of connecting Potomac Park with the Zoological Park and Rock Creek Park, a commission, to be composed of the Secretary of the Treasury, the Secretary of War, and the Secretary of Agriculture, is hereby authorized and directed to acquire, by purchase, condemnation, or otherwise, such land and premises as are not now the property of the United States in the District of Columbia shown on the map on file in the office of the Engineer Commissioner of the District of Columbia, dated May seventeenth, nineteen hundred and eleven, and lying on both sides of Rock Creek, including such portion of the creek bed as may be in private ownership, between the Zoological Park and Potomac Park; and the sum of $1,300,000 is hereby authorized to be expended toward the requirement of such land. That all lands now belonging to the United States or to the District of Columbia lying within the exterior boundaries of the land to be acquired by this act as shown and designated on said map are hereby appropriated to and made a part of the parkway herein authorized to be acquired. One-half of the cost of the said lands shall be reimbursed to the Treasury of the United States out of the revenues of the District of Columbia in eight equal annual installments, with interest at the rate of three per centum per annum, upon the deferred payments. (37 Stat. 885.)

These were provisions of section 22 of the public building appropriation act of 1913, cited above. Further provisions of this section, relating to condemnation proceedings, are omitted as temporary merely.

Provisions relating to the National Zoological Park, under the direction of the Smithsonian Institution, made by Act April 30, 1890, c. 173, §§ 2, 3, Act Aug. 18, 1894, c. 301, and Act Aug. 24, 1912, c. 355, are set forth post, §§ 10668–10691.

§ 3363. (Act March 4, 1913, c. 150, § 1.) Small parks at intersections of streets outside limits of original city of Washington.

For the condemnation of small park areas at the intersections of streets outside the limits of the original city of Washington, to be acquired from such areas shown on the map on file in the office of the Engineer Commissioner, in the discretion of the Commissioners of the District of Columbia, $25,000: * * * The public parks so acquired shall become a part of the park system of the District of Washington.
Columbia and be under the control of the Chief of Engineers of the United States Army. (37 Stat. 971.)

These were provisions of the District of Columbia appropriation act for the fiscal year 1914, cited above.

Provisions annexed to the first of these provisions, making the appropriation, relating to condemnation proceedings and assessments for benefits, are omitted as temporary merely.

Further provisions of the act authorised the acquisition of lands along the Anacostia River for park purposes.

§ 3364. (Act March 3, 1899, c. 458, § 1.) Wharf property, wharves, etc.; control by Commissioners of District of Columbia.

With the exceptions hereinafter provided, the Commissioners of the District of Columbia shall have exclusive charge and control of all wharf property belonging to the United States or to the District of Columbia within said District, including all the wharves, piers, bulkheads, and structures thereon and waters adjacent thereto within the pier lines, and all slips, basins, docks, water fronts, land under water, and structures thereon, and the appurtenances, easements, uses, reversions, and rights belonging thereto, which are now owned or possessed by the United States or the District of Columbia, or to which they or either of them is or may become entitled, or which they or either of them may acquire under the provisions hereof or otherwise; and said Commissioners of the District of Columbia shall have exclusive charge and control of the repairing, building, rebuilding, maintaining, altering, strengthening, leasing, and protecting said property and every part thereof, and all the cleaning, dredging, and deepening necessary in and about the same within the pier lines. Said Commissioners are also hereby authorized and empowered to make all needful rules and regulations for the government and control of all wharves, piers, bulkheads, and structures thereon, and waters adjacent thereto within the pier lines, and all the basins, slips, and docks, with the land under water, in said District not owned by the United States or the District of Columbia: Provided, That the following described property shall be placed under the immediate jurisdiction and control of the Chief of Engineers of the United States: The banks of the Potomac River from the north line of the Arsenal Grounds to the southern curb line of N street south; also five hundred linear feet of shore line in the Flushing Reservoir at the foot of Seventeenth street; west, and west from the western curb of said street, including a levee one hundred feet wide. (30 Stat. 1377.)

This section and the two sections next following were an act entitled "An act relative to the control of wharf property and certain public spaces in the District of Columbia."

The determination of the harbor line was provided for by section 3 of this act, post, § 3306.

§ 3365. (Act March 3, 1899, c. 458, § 2.) Regulation of wharf property, wharves, etc.; rent of wharves; use of Potomac Park by Department of Agriculture.

Said Commissioners and the Chief of Engineers of the United States Army are hereby authorized and empowered to make all

(1336)
needful rules and regulations for the government and proper care of all the property placed in their charge and under their respective control by the provisions of section one of this Act and to annex such reasonable penalties to said rules and regulations as will secure their enforcement; and also to make and enforce rules and regulations in regard to building and repairing wharves, the rental thereof, and the rate of wharflage. All rents so collected shall be covered into the Treasury of the United States, one-half to be placed to the credit of the United States and one-half to the credit of the District of Columbia. No lease made under the provisions of this Act shall extend beyond the period of ten years.

The Secretary of War is authorized to grant permission to the Department of Agriculture for the temporary occupation of such area or areas of Potomac Park, not exceeding a total of seventy-five acres in extent, as may not be needed in any one season for the reclamation or park improvement, the said areas to be used by the Department of Agriculture as testing grounds: Provided, That nothing herein contained shall be construed to change the essential character of the lands so used, which lands shall continue to be a public park, as provided in the Act of Congress approved March third, eighteen hundred and ninety-seven: And provided further, That said area or areas shall be vacated by the Department of Agriculture at the close of any season upon the request of the Secretary of War: And provided further, That the entire park shall remain under the charge of the Secretary of War. (30 Stat. 1378.)

Further provisions of this section directed the removal of the fence around the Botanical Garden, and the report, by the Joint Committee on the Library, of a bill embodying a plan for removing the Botanical Garden to another location. These provisions are omitted, as temporary merely.

§ 3366. (Act March 3, 1899, c. 458, § 3.) Determination of harbor lines.

The harbor lines of the District of Columbia shall be determined by the Chief of Engineers, United States Army, and the Commissioners of the District of Columbia, subject to the approval of the Secretary of War. (30 Stat. 1378.)

General provisions for the establishment of harbor lines by the Secretary of War, for the preservation and protection of harbors, were made by Act March 3, 1899, c. 425, § 11, post, § 9012.

§ 3367. (Act May 17, 1910, c. 243, § 1.) Commission of Fine Arts established; members; appointment; duties; secretary, etc.; expenses.

A permanent Commission of Fine Arts is hereby created to be composed of seven well-qualified judges of the fine arts, who shall be appointed by the President, and shall serve for a period of four years each, and until their successors are appointed and qualified. The President shall have authority to fill all vacancies. It shall be the duty of such commission to advise upon the location of statues, fountains, and monuments in the public squares, streets, and parks in the District of Columbia, and upon the selection of models for statues, fountains, and monuments erected under the authority of the United States and upon the selection of artists for the execution of works therefor.
§ 3367  SEAT OF GOVERNMENT  (Tit. 21)

of the same. It shall be the duty of the officers charged by law to determine such questions in each case to call for such advice. The foregoing provisions of this Act shall not apply to the Capitol building of the United States and the building of the Library of Congress. The commission shall also advise generally upon questions of art when required to do so by the President, or by any committee of either House of Congress. Said commission shall have a secretary and such other assistance as the commission may authorize, and the members of the commission shall each be paid actual expenses in going to and returning from Washington to attend the meetings of said commission and while attending the same. (36 Stat. 371.)

This section and the section next following were an act entitled "An act establishing a Commission of Fine Arts."
The officer in charge of public buildings and grounds was made the secretary and executive officer of the commission, by Act June 25, 1910, c. 384, § 1, post, § 3369.


To meet the expenses made necessary by this Act an expenditure of not exceeding ten thousand dollars a year is hereby authorized. (36 Stat. 371.)

§ 3369. (Act June 25, 1910, c. 384, § 1.) Commission of Fine Arts; officer in charge of public buildings to be secretary and executive officer.

To meet the expenses made necessary by the Act approved May seventeenth, nineteen hundred and ten, entitled "An Act establishing a Commission of Fine Arts," to be disbursed by the officer in charge of public buildings and grounds, on vouchers approved by the commission, who shall be the secretary and shall act as the executive officer of said commission, ten thousand dollars. (36 Stat. 728.)

This was a provision of the sundry civil appropriation act for the fiscal year 1910, cited above. It was repeated in similar acts for subsequent years. The provision to meet expenses, "including the purchase of periodicals, maps, and books of reference," $5,000, for the fiscal year 1914, was by Act June 23, 1913, c. 3, § 1, 38 Stat. 35.

Act May 17, 1910, c. 243, mentioned in this provision, is set forth ante, §§ 3307, 3308.

CHAPTER B

Capitol Building and Grounds

Sec.
3370. Superintendent of Capitol Building and Grounds; powers; appointment.
3371. Chief clerk to act in case of absence, disability, or vacancy in office of Superintendent.
3372. Disbursing clerk of Interior Department to act as disbursing clerk of Superintendent; compensation.

(1338)

Hereafter the office of Architect of the Capitol shall be designated as Superintendent of the Capitol Building and Grounds, and the Superintendent of the Capitol Building and Grounds shall hereafter exercise all the power and authority heretofore exercised by the Architect of the Capitol, and he shall be appointed by the President: Provided, That no change in the architectural features of the Capitol (1339)
building or in the landscape features of the Capitol grounds shall be
made except on plans to be approved by Congress. (32 Stat. 20.)

This was a provision of the urgent deficiency appropriation act for the fiscal
year 1902, cited above.

The power and authority previously exercised by the Architect of the Cap-
tol, which by this provision were to be exercised by the Superintendent of the
Capitol Building and Grounds, were conferred by R. S. § 1816, post, § 3373.

Further powers in regard to furniture for the House of Representa-
tives were conferred by the provision of Act April 28, 1902, c. 594, post, § 3379.

Power to transfer apparatus, appliances, etc., discontinued or permanently
out of service, to other branches of the service of the United States or the
District, was given by a provision of Act June 26, 1912, c. 182, § 11, post, §
3380.

Powers in regard to the operation of a heating, lighting, and power plant
for the Capitol and other buildings, etc., were conferred by provisions of Act
March 4, 1911, c. 255, § 1, post, § 3385.

Powers in regard to property acquired for enlargement of the Capitol
Grounds were given by Act Aug. 26, 1912, c. 408, § 1, post, § 3382.

Appropriations for various employees under the Superintendent of the Cap-
tol Building and Grounds are made by the legislative, executive, and judicial
appropriation acts each year. The provision for the fiscal year 1914, was by
Act March 4, 1913, c. 142, § 1, 37 Stat. 742.

§ 3371. (Act July 7, 1898, c. 571.) Chief clerk to act in case of
absence, disability, or vacancy in office of Superintendent.

Hereafter in case of the absence or disability of the [Architect of
the United States Capitol,] the chief clerk to the [Architect] shall
have full power and authority to do and perform all the acts which
the [Architect of the United States Capitol] might himself do, and
in case of a vacancy the chief clerk shall perform the duties of the
[Architect] until the vacancy shall be filled according to law. (30
Stat. 672.)

This was a provision of the deficiency appropriation act for the fiscal year
1898, cited above.

A like provision was made by the legislative, executive, and judicial appro-
priation act for the fiscal year 1900, Act April 17, 1900, c. 102, § 1, 31 Stat.
126, and in the similar act for the fiscal year 1901, Act March 3, 1901, c.
830, § 1, 31 Stat. 1000.

The words of this provision, “Architect of the United States Capitol,” and
“Architect,” inclosed in brackets, were superseded by the designation of the
office as “Superintendent of the Capitol Building and Grounds” and the trans-
fer of the powers and authority of the office to said Superintendent by Act
Feb. 14, 1899, c. 17, ante, § 3370.

§ 3372. (Act March 3, 1879, c. 182, § 1.) Disbursing clerk of In-
terior Department to act as disbursing clerk of Superintendent;
compensation.

Hereafter the disbursing clerk of the Department of the Interior
is hereby required to act as disbursing clerk of the [Architect of the
Capitol,] and to disburse all moneys appropriated for the United
States Capitol extension and improvement of the grounds, and to
receive an annual compensation of one thousand dollars, to be paid
out of said appropriation. (20 Stat. 391.)

This was a provision of the sundry civil appropriation act for the fiscal
year 1880, cited above.

The words of this section, “Architect of the Capitol,” inclosed in brackets,
were superseded by the designation of the office as “Superintendent of the
(1340)
Capitol Building and Grounds" and the transfer of the powers and authority of the office to said Superintendent, by Act Feb. 14, 1902, c. 17, ante, § 3370.

§ 3373. (R. S. § 1816.) Repairs, etc., of Capitol.
All improvements, alterations, additions, and repairs of the Capitol building shall hereafter be made by the direction and under the supervision of the [Architect of the Capitol Extension,] and the same shall be paid for by the Secretary of the Interior out of the appropriations for such extension, and from no other appropriation; and no furniture or carpets for either House shall hereafter be purchased without the written order of the chairman of the Committee to Audit and Control the Contingent Expenses of the Senate, for the Senate, or without the written order of the chairman of the Committee on Accounts of the House of Representatives, for the House.


The Architect of the Capitol had the care and superintendence of the Capitol, including heating, by provisions of Act Aug. 15, 1876, c. 287, § 1, ante, § 3374.

The ventilation and heating of the House of Representatives were placed under his direction by Act March 3, 1877, c. 105, § 1, and of the Senate wing by Act July 11, 1888, c. 615, ante, §§ 3376, 3378. His duties in regard to the Capitol police were prescribed by R. S. §§ 1821, 1823, post, §§ 3406, 3409. He was required to make inventories and accounts of public property and reports thereof by R. S. § 1833, post, § 3419.

Provisions relating to disbursements and estimates for the Capitol extension and improvements in the grounds were made by Act March 3, 1879, c. 182, § 1, and Act March 3, 1883, c. 143, ante, §§ 3372, 3381.

In case of absence or disability of the Architect of the Capitol, or in case of a vacancy, the chief clerk to the Architect was authorized to perform the duties of the Architect, by Act July 7, 1890, c. 571, § 1, set forth, ante, § 3371.

Provisions for plans, specifications, and estimates for further reconstruction, extension, and improvement of the Capitol are contained in Act March 3, 1903, c. 853, 31 Stat. 1156. They are omitted, as temporary merely.

§ 3374. (Act Aug. 15, 1876, c. 287, § 1.) Care and superintendence of Capitol; estimates.

The [Architect of the Capitol] shall have the care and superintendence of the Capitol, including lighting, and shall submit through the Secretary of the Interior estimates thereof. And Provided further, That all the duties relative to the Capitol building heretofore performed by the Commissioner of public buildings and grounds, shall hereafter be performed by the [Architect of the Capitol], whose office shall be in the Capitol building. (19 Stat. 147.)

These were provisos annexed to the appropriation for the person in charge of heating apparatus, in the sundry civil appropriation act for the fiscal year 1877, cited above.

The first proviso was repeated in the similar act for the year next following, Act March 3, 1877, c. 102, § 1, 19 Stat. 295, with the addition of the words "hereafter" and "annually," making it read as follows:

"The Architect of the Capitol shall hereafter have the care and superinten-
dence of the Capitol, including lighting, and shall submit through the Secretary of the Interior annually estimates thereof."

The words of this section, "Architect of the Capitol," inclosed in brackets, were superseded by the designation of the office as "Superintendent of the Capitol Building and Grounds" and the transfer of the powers and authority of the office to said Superintendent, by Act Feb. 14, 1902, c. 17, ante, § 3370.

R. S. § 1817, which provided that the electrical apparatus for lighting the hall of the House, the dome, the rotundas, and the old Hall of Representatives, should be in charge of the chief engineer of the House of Representatives, subject to the control and supervision of the Architect of the Capitol and the Chief of Engineers in charge of public buildings and grounds, was superseded by this provision and the provision of Act March 3, 1881, c. 130, § 1, post, § 3377.

Provisions for estimates for improvements in Capitol grounds were made by Act March 3, 1883, c. 143, post, § 3381.

§ 3375. (Act July 31, 1876, c. 246.) Superintendent of meters to report consumption of gas.

The Superintendent of meters at the Capitol shall hereafter take the statement of the meters of the several Department buildings in the city of Washington, and render to the proper accounting officers of the Treasury Department the consumption of gas each month in said buildings respectively. (19 Stat. 115.)

This was a provision annexed to the appropriation for lighting the Executive Mansion, etc., in the sundry civil appropriation act for the fiscal year 1877, cited above. It was repeated in the similar appropriation act for the year next following, Act March 3, 1877, c. 105, 19 Stat. 359.

Recent annual appropriations for the Capitol power plant, for lighting the Capitol and other buildings, provide for payment of superintendent of meters, at the rate of $1,600 per annum, who shall inspect all gas and electric meters of the Government in the District of Columbia without additional compensation. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 8, § 1, 38 Stat. 67.

§ 3376. (Act March 3, 1877, c. 105.) Ventilating and heating House of Representatives.

That hereafter the subject of ventilation and heating the House of Representatives be placed under the direction of the [Architect of the Capitol.] (19 Stat. 348.)

This was a provision of the sundry civil appropriation act for the fiscal year 1878, cited above.

The words of this section, "Architect of the Capitol," inclosed in brackets, were superseded by the designation of the Office as "Superintendent of the Capitol Building and Grounds," and the transfer of the powers and authority of the office, to said Superintendent, by Act Feb. 14, 1902, c. 17, ante, § 3370.

§ 3377. (Act March 3, 1881, c. 130, § 1.) Lighting, heating, and ventilating House of Representatives.

Hereafter the electrician, together with everything pertaining to the electrical machinery and apparatus, and all laborers and others connected with the lighting, heating and ventilating the House. shall be subject exclusively to the orders, and in all respects under the direction, of the [Architect of the Capitol], subject to the control of the Speaker; and no removal or appointment shall be made except with his approval. And all engineers and others who are engaged in heating and ventilating the House shall be subject to the orders, and in all respects under the direction, of the [Architect (1342)
of the Capitol], subject to the control of the Speaker; and no removal or appointment shall be made except with his approval. (21 Stat. 388.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1882, cited above.

The words of this section, "Architect of the Capitol," inclosed in brackets, were superseded by the designation of the office as "Superintendent of the Capitol Building and Grounds" and the transfer of the powers and authority of the office to said Superintendent, by Act Feb. 14, 1902, c. 17, ante, § 3370. Subsequent provisions for a heating, lighting, and power plant for the Capitol were made by Act March 4, 1911, c. 285, § 1, post, § 3385, and the act therein mentioned.

§ 3378. (Act July 11, 1888, c. 615, § 1.) Heating and ventilating Senate wing of Capitol.

All engineers and others who are engaged in heating and ventilating the Senate wing of the Capitol shall be subject to the orders and in all respects under the direction of the [Architect of the Capitol], subject to the approval of the Senate Committee on Rules. (25 Stat. 258.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1889, cited above.

The words of this section, "Architect of the Capitol," inclosed in brackets, were superseded by the designation of the office as "Superintendent of the Capitol Building and Grounds" and the transfer of the powers and authority of the office to said Superintendent, by Act Feb. 14, 1902, c. 17, ante, § 3370.

§ 3379. (Act April 28, 1902, c. 594.) Furniture for House of Representatives.

Hereafter the Superintendent of the Capitol Building and Grounds shall supervise and direct the care and repair of all furniture in the Hall, cloakrooms, lobby, committee rooms, and offices of the House, and all furniture hereafter required for the House of Representatives or for any of its committee rooms or offices shall be procured on designs and specifications made or approved by the said Superintendent. (32 Stat. 125.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1903, cited above.

§ 3380. (Act June 26, 1912, c. 182, § 11.) Transfer of discontinued apparatus, etc., to other branches of government service.

Hereafter the Superintendent of the Capitol Building and Grounds may transfer apparatus, appliances, equipments, and supplies of any kind, discontinued or permanently out of service, to such other branches of the service of the United States, or District of Columbia, whenever, with the approval of the Secretary of the Interior, in his judgment the interests of the Government service may require it. A detailed statement of all such transfers shall be submitted in the annual report to Congress of the Superintendent of the Capitol Building and Grounds. (37 Stat. 184.)

This section was part of the District of Columbia appropriation act for the fiscal year 1913, cited above.

A similar provision, without the word "Hereafter," was made by the similar appropriation act for the preceding year, Act March 2, 1911, c. 102, § 9, 36 Stat. 1011.

(1343)

For improving the Capitol grounds: * * and hereafter all changes and improvements in the grounds, including approaches to the Capitol, shall be estimated for in detail, showing what modifications are proposed and the estimate cost of the same. (22 Stat. 621.)

This was a provision of the sundry civil appropriation act for the fiscal year 1884, cited above.

The part of the provision omitted here made an appropriation for improving the Capitol grounds.

Changes in architectural or in landscape features without the approval of Congress were forbidden by Act Feb. 14, 1902, c. 17, ante, § 3370. * * *


Provisions for care of property so acquired for the enlargement of Capitol grounds were made by Act Aug. 26, 1912, c. 408, § 1, post, § 3382.

§ 3382. (Act Aug. 26, 1912, c. 408, § 1.) Care and control of buildings and land acquired for enlargement of Capitol grounds.

Enlarging the Capitol Grounds: The Secretary of the Interior is hereby authorized, until their removal becomes necessary, to rent for such periods and under such terms and conditions as he may deem proper, any building or buildings, or vacant land, that may be acquired under the provisions of the sundry civil Acts of June twenty-fifth, nineteen hundred and ten (Thirty-sixth Statutes, page seven hundred and thirty-eight), and March fourth, nineteen hundred and eleven (Thirty-sixth Statutes, page fourteen hundred and fourteen), or subsequent Acts, for the enlargement of the Capitol Grounds, the proceeds to be deposited in the Treasury and a detailed report thereof to be submitted to Congress at the beginning of each regular session thereof. The Superintendent of the United States Capitol Building and Grounds, under the direction of the Secretary of the Interior, is hereby charged with the immediate care of said buildings, and the direction and supervision of all repairs thereto, and the lands acquired under the provision of the above-mentioned Acts: Provided, That the authority hereby granted shall also apply to the Maltby Building, now under the control of the United States Senate. (37 Stat. 605.)

These were provisions of the deficiency appropriation act for the fiscal year 1912, cited above.

§ 3383. (Act March 4, 1907, c. 2918, § 1.) House Office Building; control, supervision, and care, under direction of Commission; estimates for services and expenses; regulation by Commission; assignment of rooms.

House of Representatives office building: * * And the said office building and the employment of all service, other than officers and privates of the Capitol police, that may be appropriated for by Congress, (1344)
necessary for its protection, care, and occupancy, shall be under the
tcontrol and supervision of the Superintendent of the Capitol Building
and Grounds, subject, until said building is completed, to the approval
and direction of the Commission appointed under the sundry civil ap-
propriation Act approved March third, nineteen hundred and three, to
supervise the construction of said building; and such control and
supervision by the Superintendent of the Capitol Building and Grounds
shall be and continue after the completion of said building, and not
later than July first, nineteen hundred and eight, subject to the ap-
proval and direction of a Commission consisting of the Speaker of the
House of Representatives and two Representatives in Congress, to be
appointed by the Speaker. Vacancies occurring by resignation, ter-
nmination of service as Representatives in Congress, or otherwise in
the membership of said Commission shall be filled by the Speaker, and
any two members of said Commission shall constitute a quorum to do
business. The Superintendent of the Capitol Building and Grounds
shall submit annually to Congress estimates in detail for all services,
other than officers and privates of the Capitol police, and for all other
expenses in connection with said office building and necessary for its
protection, care, and occupancy; and said Commissions herein referred
to shall from time to time prescribe rules and regulations to govern
said Superintendent in making all such employments, together with
rules and regulations governing the use and occupancy of all rooms and
space in said building. The assignment of rooms, in said building, to
and for the official use of Representatives shall be by such method as
the House of Representatives may hereafter from time to time deter-
mine. (34 Stat. 1365.)

These were provisions accompanying an appropriation for maintenance, etc.,
of the building, in the sundry civil appropriation act for the fiscal year 1908,
cited above.

The acquisition of a site for and the construction of the House Office Build-
ing, and the appointment of a Commission to supervise its construction, men-
tioned in these provisions, were authorized by Act March 3, 1908, c. 1007, §
1, 32 Stat. 1113.

A provision for continuance of the Speaker as a member of the Commission
in control of the Building was made by Act March 4, 1911, c. 240, post, §
3384.

Appropriations for the maintenance, etc., of the Senate Office Building, the
construction of which was provided for by Act April 28, 1904, c. 1762, § 1, 33
Stat. 481, and for the maintenance of the House Office Building, are made in
the recent sundry civil appropriation acts. The provisions for the fiscal year
1914, were by Act June 22, 1913, c. 8, § 1, 38 Stat. 87.

§ 3384. (Act March 4, 1911, c. 240.) House Office Building;
Speaker to continue as member of Commission.

The Speaker shall continue a member of the commission in control
of the House Office Building, appointed under the sundry civil ap-
propriation Act approved March fourth, nineteen hundred and seven,
until his successor as Speaker is elected or his term as a Representa-
tive in Congress shall have expired. (36 Stat. 1306.)

This was a provision of the deficiency appropriation act for the fiscal year
1911, cited above.

Comp.St.'13—85 (1345)
§ 3385. (Act March 4, 1911, c. 285, § 1.) Capitol power plant; lighting Capitol and other buildings; superintendent of meters; expenditures; filling vacancies in operating force.

Capitol power plant: For lighting the Capitol, Senate and House Office Buildings, and Congressional Library Building, and the grounds about the same, Botanic Garden, Senate stables and engine house, House stables, Maltby Building, and folding and storage rooms of the Senate; pay of superintendent of meters, at the rate of one thousand six hundred dollars per annum, who shall inspect all gas and electric meters of the Government in the District of Columbia without additional compensation; for necessary personal and other services; and for materials and labor in connection with the maintenance and operation of the heating, lighting, and power plant, and substations connected therewith, to be expended by the Superintendent of the Capitol Building and Grounds under the supervision and direction of the Commission in control of the House Office Building appointed under the Act approved March fourth, nineteen hundred and seven, ninety thousand dollars: Provided, That hereafter the heating, lighting, and power plant constructed under the terms of the Act approved April twenty-eighth, nineteen hundred and four, shall be known as the Capitol power plant; and hereafter all vacancies occurring in the force operating said plant and the substations in connection therewith shall be filled by said superintendent with the approval of said commission in control of the House Office Building appointed under the Act approved March fourth, nineteen hundred and seven. (36 Stat. 1414.)

These were provisions of the sundry civil appropriation act for the fiscal year 1912, cited above.

The provision of Act March 4, 1907, c. 2918, § 1, mentioned in these provisions, for the appointment of a Commission in control of the House Office Building, is set forth ante, § 3383.

The construction of the heating, lighting, and power plant mentioned in these provisions and designated thereby as the Capitol power plant, was authorized by Act April 28, 1904, c. 1762, § 1, 33 Stat. 479.

A cross connection between the Capitol power plant and the central power plant, to be constructed to furnish heat, light, and power to certain other buildings, was authorized by the provisions for the construction of said central power plant, of Act June 23, 1913, c. 3, § 1, ante, § 3382.

Appropriations for the Capitol power plant are made in the annual sundry civil appropriation acts. They are accompanied by a provision that they shall be "expended by the Superintendent of the Capitol Building and Grounds under the supervision and direction of the commission in control of the House Office Building, appointed under" Act March 4, 1907, c. 2918, § 1, ante, § 3383, and without reference to Act June 17, 1910, c. 297, § 4, post, § 6853, concerning purchases for executive departments. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 3, § 1, 38 Stat. 67.

§ 3386. (R. S. § 1814.) Old hall of House of Representatives set apart as national statuary hall.

Suitable structures and railings shall be erected in the old hall of Representatives for the reception and protection of statuary, and the same shall be under the supervision and direction of the Chief of Engineers in charge of public buildings and grounds. And the President is authorized to invite all the States to provide and furnish

(1346)
§ 3387. (R. S. § 1815.) Paintings, etc., not to be exhibited in Capitol.

No statuary, painting, or other article, the property of an individual, shall hereafter be allowed to be exhibited in the rotunda or any other portion of the Capitol building.


Further prohibitions of the exhibition in the Capitol of works of art, etc., not the property of the United States, were made by Act March 8, 1875, c. 130, § 1, and Act March 3, 1879, c. 182, § 1, set forth post, §§ 3388, 3389.

The Joint Committee on the Library were authorized to accept works of the fine arts on behalf of Congress, and to assign them places in the Capitol, by R. S. § 1851, post, § 3390.

§ 3388. (Act March 3, 1875, c. 130, § 1.) Exhibition of private work of art or use of rooms for private studios in Capitol.

No work of art not the property of the United States shall be exhibited in the Capitol, nor shall any room in the Capitol be used for private studios or works of art, without permission from the Joint Committee on the Library, given in writing; and it shall be the duty of the [Architect of the Capitol Extension] to carry these provisions into effect. (18 Stat. 376.)

This was a provision of the sundry civil appropriation act for the year ending 1876, cited above.

The words of this section, "Architect of the Capitol Extension," enclosed in brackets, were superseded by the designation of the office as "Superintendent of the Capitol Building and Grounds" and the transfer of the powers and authority of the office to said Superintendent, by Act Feb. 14, 1902, c. 17, ante, § 3370.

§ 3389. (Act March 3, 1879, c. 182, § 1.) Exhibition of private works of art or manufactures in Capitol.

No work of art or manufacture other than the property of the United States shall be exhibited in the National Statuary Hall, the Rotunda, or the corridors of the Capitol. (20 Stat. 391.)

This was a provision of the sundry civil appropriation act for the fiscal year 1880, cited above.

§ 3390. (R. S. § 1831.) Works of fine arts.

The Joint Committee on the Library, whenever, in their judgment, it is expedient, are authorized to accept any work of the fine arts, on behalf of Congress, which may be offered, and to assign the same such place in the Capitol as they may deem suitable, and shall have the supervision of all works of art that may be placed in the Capitol.


The exhibition of works of art, etc., not the property of the United States,
was forbidden by R. S. 1815, and subsequent provisions of Act March 3, 1875, c. 130, § 1, and Act March 3, 1879, c. 182, § 1, ante, §§ 3387-3389.

A Commission of Fine Arts was provided for by Act May 17, 1910, c. 243, ante, §§ 3367, 3368.

§ 3391. (Act March 3, 1903, c. 1012, § 34.) Intoxicating liquors not to be sold in Capitol.

No intoxicating liquors of any character shall be sold within the limits of the Capitol building of the United States. (32 Stat. 1221.)

This section was a part of the Immigration Act of 1903, cited above.

Other sections of said act were repealed, and new provisions enacted instead thereof, by the Immigration Act of Feb. 20, 1907, c. 1134, post, §§ 4242-4289.


All laws and regulations of the District of Columbia for the preservation of the public peace and order shall extend to the Capitol Square, whenever application for the same is requested by the presiding officer of either House of Congress, or by the Chief of Engineers in charge of public buildings and grounds.


Regulations of the use of the Capitol Grounds were made by Act July 1, 1862, c. 259, post, §§ 3394-3404.

The laws of the District of Columbia for the protection of property and preservation of peace and order were extended to all public buildings and public grounds belonging to the United States within the District by Act July 29, 1892, c. 320, § 15, ante, § 3337.

§ 3393. (R. S. § 1820.) Protection of public buildings; arrest of offenders.

The Sergeants-at-Arms of the Senate and of the House of Representatives are authorized to make such regulations as they may deem necessary for preserving the peace and securing the Capitol from defacement, and for the protection of the public property therein, and they shall have power to arrest and detain any person violating such regulations, until such person can be brought before the proper authorities for trial.


The powers and duties of the Sergeants-at-Arms of the Senate and of the House of Representatives in regard to the Capitol Police were prescribed by R. S. §§ 1821-1825, post, §§ 3406, 3408, 3409, 3411, 3412.

§ 3394. (Act July 1, 1882, c. 258, § 1.) Capitol grounds; public use; travel, etc.

Public travel in and occupancy of the Capitol Grounds shall be restricted to the roads, walks, and places prepared for the purpose by flagging, paving, or otherwise. (22 Stat. 126.)

This section and the ten sections next following were an act entitled "An act to regulate the use of the Capitol Grounds." A preamble thereto was as follows:

"Whereas, the Capitol Grounds have been formed to subserve the quiet and dignity of the Capitol of the United States, and to prevent the occurrence near it of such disturbances as are incident to the ordinary use of public streets and places: Therefore the following statute for the regulation of the public use of said grounds is hereby enacted:"

(1348)
§ 3395. (Act July 1, 1882, c. 258, § 2.) Obstruction of roads.

It is forbidden to occupy the roads in such manner as to obstruct or hinder their proper use, to drive violently upon them, or with animals not under perfect control, or to use them for the conveyance of goods or merchandise, except to or from the Capitol on government service. (22 Stat. 126.)

§ 3396. (Act July 1, 1882, c. 258, § 3.) Offer of articles for sale; display of signs, etc.; solicitation of fares, alms, etc.

It is forbidden to offer or expose any article for sale; to display any sign, placard, or other form of advertisement; to solicit fares, alms, subscriptions, or contributions.

Act July 1, 1882, c. 258, § 3, 22 Stat. 126.

Advertisements and sales in or around the Washington Monument were forbidden by Act March 4, 1909, c. 296, § 1, ante, § 3348.

§ 3397. (Act July 1, 1882, c. 258, § 4.) Injury to statue, seat, wall, etc., tree, shrub, etc.

It is forbidden to step or climb upon, remove, or in any way injure any statue, seat, wall, or other erection, or any tree, shrub, plant, or turf. (22 Stat. 126.)

§ 3398. (Act July 1, 1882, c. 258, § 5.) Fire-arms, fire-works, etc.; harangues or orations; loud, threatening, or abusive language.

It is forbidden to discharge any fire-arm, fire-work, or explosive, set fire to any combustible, make any harangue or oration, or utter loud, threatening, or abusive language. (22 Stat. 127.)

§ 3399. (Act July 1, 1882, c. 258, § 6.) Parades or assemblages; display of flags, etc.

It is forbidden to parade, stand, or move in processions or assemblages, or display any flag, banner, or device designed or adapted to bring into public notice any party, organization, or movement. (22 Stat. 127.)

§ 3400. (Act July 1, 1882, c. 258, § 7.) Prosecution and punishment of offenses against act.

Offenses against this act shall be triable before the police court of the District of Columbia, and shall be punishable by fine or imprisonment, or both, at the discretion of the judge of said court; the fine not to exceed one hundred dollars, the imprisonment not to exceed sixty days. But in the case of heinous offenses by reason of which public property shall have suffered damage to an amount exceeding one hundred dollars in value, said judge of the police court may commit or hold to bail the offender for trial before the supreme court of the District of Columbia, when the offense shall be punishable by imprisonment in the penitentiary for a period of not less than six months nor more than five years. (22 Stat. 127.)

§ 3401. (Act July 1, 1882, c. 258, § 8.) Policemen, etc., to make arrests for offenses against act.

It shall be the duty of all policemen and watchmen having author-
§ 3401  SEAT OF GOVERNMENT  (Tit. 21

ity to make arrests in the District of Columbia to be watchful for offenses against this act, and to arrest and bring before the proper tribunal those who shall offend against it under their observation, or of whose offenses they shall be advised by witnesses. (22 Stat. 127.)

The duties of the Capitol police to protect the Capitol Grounds were prescribed by provisions of Act April 29, 1876, c. 86, and Act May 28, 1896, c. 252, § 1, post, §§ 3414, 3415.

§ 3402. (Act July 1, 1882, c. 258, § 9.) Capitol employés to aid in enforcement of act.

It shall be the duty of all persons employed in the service of the government in the Capitol or on its grounds to prevent, as far as may be in their power, offenses against this act, and to aid the police, by information or otherwise, in securing the arrest and conviction of offenders. (22 Stat. 127.)

§ 3403. (Act July 1, 1882, c. 258, § 10.) Authority to suspend regulations; President of Senate and Speaker of House of Representatives.

In order to admit of the due observance within the Capitol Grounds of occasions of national interest becoming the cognizance and entertainment of Congress, the President of the Senate and the Speaker of the House of Representatives, acting concurrently, are hereby authorized to suspend for such proper occasions so much of the above prohibitions as would prevent the use of the roads and walks of the said grounds by processions or assemblages, and the use upon them of suitable decorations, music, addresses, and ceremonies: Provided, That responsible officers shall have been appointed, and arrangements determined, adequate, in the judgment of said President of the Senate and Speaker of the House of Representatives, for the maintenance of suitable order and decorum in the proceedings, and for guarding the Capitol and its grounds from injury. (22 Stat. 127.)

§ 3404. (Act July 1, 1882, c. 258, § 11.) Authority to suspend regulation; Capitol police commission.

In the absence from Washington of either of the officers designated in the last section the authority therein given to suspend certain prohibitions of this act shall devolve upon the other, and in the absence from Washington of both it shall devolve upon the Capitol police commission. (22 Stat. 127.)

The power to select the Capitol police force was given to the Sergeants-at-Arms of the two Houses by Act April 28, 1902, c. 254, § 1, post, § 3407.

§ 3405. (Act June 6, 1900, c. 791, § 1.) Concerts on Capitol grounds.

Nothing in the Act to regulate the use of the Capitol grounds, approved July first, eighteen hundred and eighty-two, shall be construed to prohibit concerts on the Capitol grounds at times when neither House of Congress is sitting by any band in the service of the
United States under the direction of the [Architect of the Capitol].
(31 Stat. 613.)

This was a proviso annexed to the appropriation for lighting the Capitol and grounds, in the sundry civil appropriation act for the fiscal year 1901, cited above.

The words of this section, "Architect of the Capitol," enclosed in brackets, were superseded by the designation of the office as "Superintendent of the Capitol Building and Grounds" and the transfer of powers to said superintendent by Act Feb. 14, 1902, c. 17, ante, § 3370.

§ 3406. (R. S. § 1821.) Capitol police.
There shall be a Capitol police, the members of which shall be appointed by the Sergeants-at-Arms of the two Houses and the Architect of the Capitol Extension. There shall be a captain of the Capitol police and such other members with such rates of compensation, respectively, as may be appropriated for by Congress from year to year.


The duties of the Architect of the Capitol Extension were conferred on the Superintendent of the Capitol Building and Grounds by Act Feb. 14, 1902, c. 17, ante, § 3370, and subsequently the power to select the Capitol police force was given to the Sergeants-at-Arms of the two Houses by Act April 28, 1902, c. 254, § 1, post, § 3407.

§ 3407. (Act April 28, 1902, c. 594, § 1.) Capitol police; appointment by Sergeants-at-Arms of Senate and House of Representatives.

For captain, * * * and three lieutenants * * *, hereafter to be selected jointly by the Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House of Representatives; thirty privates, * * *; and eight watchmen * *, one-half of said privates and watchmen to be selected by the Sergeant-at-Arms of the Senate and one-half by the Sergeant-at-Arms of the House of Representatives. (32 Stat. 124.)

This was part of a provision making an appropriation for the Capitol police, in the legislative, executive, and judicial appropriation act for the fiscal year 1903, cited above. It was followed by a further provision requiring one half the appropriation to be disbursed by the Secretary of the Senate and the other half to be disbursed by the Clerk of the House of Representatives. Like provisions have been repeated in similar appropriation acts for recent years. The provision for the fiscal year 1914 was by Act March 4, 1913, c. 142, 37 Stat. 742.

§ 3408. (R. S. § 1822.) Capitol police; number and pay.
The Capitol police shall consist of the following members, to be paid at the following rates, respectively, per annum, on the order of the Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House, or of either of them, namely:

One captain, at two thousand four hundred and one dollars and twenty cents; three lieutenants, at two thousand and seventy dollars each; twenty-seven privates, at one thousand eight hundred and twenty-one dollars and sixty cents each; and eight watchmen, at one thousand one hundred and fifty dollars each.


Appropriations for the Capitol police, for a force and at rates of pay varying (1351)
§ 3409 SEAT OF GOVERNMENT (Tit. 21)

from the provisions of this section, "one half to be disbursed by the Secretary of the Senate and the other to be disbursed by the Clerk of the House of Representatives," are made by the annual legislative, executive, and judicial appropriation acts. The provision for the fiscal year 1914 was by Act March 4, 1913, c. 142, § 1, 37 Stat. 742.

§ 3409. (R. S. § 1823.) Suspension of members of force.

The captain of the Capitol police may suspend any member of the force, subject to the approval of the two Sergeants-at-Arms and of the Architect of the Capitol Extension.

Act March 3, 1873, c. 228, 17 Stat. 488.

The Sergeants-at-Arms of the two houses of Congress were given sole power to select the Capitol police force by Act April 28, 1902, c. 254, § 1, ante, § 3407, and the office of Architect of the Capitol was designated "Superintendent of the Capitol Building and Grounds" by Act Feb. 14, 1902, c. 17, ante, § 3370. See note to R. S. § 1821, ante, § 3406.

§ 3410. (Act March 3, 1875, c. 129, § 1.) Pay of members under suspension.

Hereafter, whenever a member of the Capitol police or watch force is suspended from duty for cause, said policeman or watchman shall receive no compensation for the time of such suspension if he shall not be re-instated. (18 Stat. 345.)

This is a proviso annexed to the appropriation for pay of the Capitol police, in the legislative, executive, and judicial appropriation act for the fiscal year 1876, cited above.

A like provision, without the word "hereafter," was contained in the similar appropriation act for the year next preceding.

§ 3411. (R. S. § 1824.) Uniform.

The Sergeant-at-Arms of the Senate and the Sergeant-at-Arms of the House of Representatives are directed to select and regulate the pattern for a uniform for the Capitol police and watchmen, and to furnish each member of the force with the necessary belts and arms, at a cost not to exceed twenty dollars per man, payable out of the contingent fund of the Senate and House of Representatives upon the certificate of the officers above named.

Act March 30, 1867, c. 20, § 1, 15 Stat. 11.

The wearing of the uniform, when on duty, was prescribed by a provision of Act March 8, 1901, c. 830, § 1, post, § 3412.

§ 3412. (R. S. § 1825.) At whose expense.

The members of the Capitol police shall furnish, at their own expense, each his own uniform, which shall be in exact conformity to that required by regulation of the Sergeants-at-Arms.

Act July 20, 1868, c. 170, § 1, 15 Stat. 94.

§ 3413. (Act March 3, 1901, c. 830, § 1.) Capitol police to wear uniform while on duty.

Hereafter the officers, privates, and watchmen of the Capitol police shall, when on duty, wear the regulation uniform. (31 Stat. 963.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1902, cited above.

This provision was repeated in the similar appropriation acts for each of the fiscal years 1904 and 1905, Act Feb. 25, 1903, c. 755, § 1, 32 Stat. 857, and Act March 18, 1904, c. 718, § 1, 33 Stat. 89, but it was not repeated in (1352)
§ 3414. (Act May 28, 1896, c. 252, § 1.) Capitol police to police Capitol building and grounds.
Hereafter the Capitol police, under the direction of the Sergeants-at-Arms of the Senate and of the House of Representatives and of the [Architect of the Capitol], shall police the Capitol building and the Capitol grounds. (29 Stat. 143.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1897, cited above.
The words of this section, "Architect of the Capitol," inclosed in brackets, were superseded by the designation of the office as "Superintendent of the Capitol Building and Grounds" and the transfer of the powers and authority of the office to said Superintendent by Act Feb. 14, 1902, c. 17, ante, § 3370.

§ 3415. (Act April 29, 1876, c. 86.) Capitol police to protect Capitol grounds.
It shall be the duty of the Capitol police hereafter to prevent any portion of the Capitol grounds and terraces from being used as play-grounds or otherwise, so far as may be necessary to protect the public property, turf and grass from destruction or injury. (19 Stat. 41.)

This was an act entitled "An act to protect the public property, turf, and grass of the Capitol grounds from injury."

§ 3416. (R. S. § 1826.) Supervision extended over Botanical Garden.
The supervision of the Capitol police shall be extended over the Botanical Garden.

A further provision of this section, which authorized the employment of additional police force, was repealed by Act Aug. 15, 1876, c. 287, § 1, 19 Stat. 144.

§ 3417. (R. S. § 1827.) Superintendent, etc., of Botanical Garden and green-houses.
There shall be a superintendent, assistants, and two additional laborers in the Botanical Garden and green-houses, who shall be under the direction of the Joint Committee on the Library.

The Superintendent of the Library building and grounds was authorized to disburse the appropriations for the Botanical Garden by a provision of Act July 18, 1897, c. 9, § 1, ante, § 138.

§ 3418. (R. S. § 1832.) Annual statement of public property.
It shall be the duty of the officer or officers having in charge the property of the United States in and about the Capitol, the President's House, and the Botanical Garden, to furnish an annual statement to the [Architect of the Capitol Extension], by the first day of December, setting forth the public property in all the buildings, rooms, and grounds under their charge, purchased during each

(1353)
year, and an account of the disposition of such property during the same period, whether by sale or otherwise.


The words of this section, "Architect of the Capitol Extension," inclosed in brackets, were superseded by the designation of the office as "Superintendent of the Capitol Building and Grounds" and the transfer of the powers and authority of the office to said Superintendent by Act Feb. 14, 1902, c. 17, ante, § 3370.

See note to R. S. § 1833, post, § 3419.

§ 3419. (R. S. § 1833.) Inventory of public property.

The [Architect of the Capitol Extension] shall make out and keep, in proper books, a complete inventory of all public property in and about the Capitol, the Botanical Garden, and the President's House, adding thereto, from time to time, an account of such property as may be procured, subsequently to the taking of the first inventory, as well as an account of the sale or other disposal of such property. And he shall submit an annual report of such inventories and accounts, on the first Monday of December to Congress.

Act July 15, 1870, c. 300, § 2, 16 Stat. 364.

The words of this section, "Architect of the Capitol Extension," inclosed in brackets, were superseded by the designation of the office as "Superintendent of the Capitol Building and Grounds" and the transfer of the powers and authority of the office to said Superintendent by Act Feb. 14, 1902, c. 17, ante, § 3370.

Subsequent provisions for an annual inventory of all public property in and belonging to the Executive Mansion, to be made by the steward, under direction of the officer in charge of public buildings and grounds, and to be submitted to Congress with the annual report of said officer, were made by Act April 17, 1900, c. 192, § 1, 31 Stat. 97. They were superseded by more comprehensive provisions of the same nature, but directing such inventory to be submitted to the President for his approval, and then to be kept in the office of Public Buildings and Grounds, made by Act June 25, 1910, c. 894, § 2, ante, § 231.

§ 3420. (R. S. § 1834.) Two last sections not to apply to Library of Congress, etc.

The two preceding sections shall not apply to the books, pamphlets, papers, and documents in the Library of Congress, nor to the supplies of stationery and fuel in the several public buildings and offices therein referred to.

Act July 15, 1870, c. 300, § 3, 16 Stat. 364.

Inventories and accounts of property were required to be made by the officers of the Senate and of the House of Representatives by R. S. § 72, ante, § 106, and by the heads of the Executive Departments by R. S. § 197, ante, § 280.

§ 3421. (R. S. § 1835.) Extra pay prohibited.

No pay or compensation other than is fixed by this Title shall be allowed to any officer, employé, or laborer embraced within the provisions hereof.

Act July 12, 1870, c. 251, § 4, 16 Stat. 250.

(1354)
Title XXII.

The States

§ 3422. (R. S. § 1836.) Oath by members of State legislatures and State officers.

Every member of a State legislature, and every executive and judicial officer of a State, shall, before he proceeds to execute the duties of his office, take an oath in the following form, to wit: "I, A B, do solemnly swear that I will support the Constitution of the United States."

Act June 1, 1789, c. 1, § 3, 1 Stat. 23.

§ 3423. (R. S. § 1837.) By whom administered.

Such oath may be administered by any person who, by the law of the state, is authorized to administer the oath of office; and the person so administering such oath shall cause a record or certificate thereof to be made in the same manner as, by the law of the State, he is directed to record or certify the oath of office.

Act June 1, 1789, c. 1, § 3, 1 Stat. 23.

§ 3424. (R. S. § 1838.) Assent of States to purchase of lands for forts, etc.

The President of the United States is authorized to procure the assent of the legislature of any State, within which any purchase of land has been made for the erection of forts, magazines, arsenals, dockyards, and other needful buildings, without such consent having been obtained.

Act April 28, 1828, c. 41, § 2, 4 Stat. 294.

The various acts, subsequent to the Revised Statutes, which provided for the admission of new States into the Union, are the following: Act March 3, 1875, c. 139, 18 Stat. 474, for the admission of Colorado; Act Feb. 22, 1889, c. 180, 25 Stat. 678, for the admission of North Dakota, South Dakota, Montana, and Washington; Act July 3, 1890, c. 656, 26 Stat. 215, for the admission of Idaho; Act July 10, 1890, c. 664, 26 Stat. 222, for the admission of Wyoming; Act July 16, 1894, c. 128, 28 Stat. 107, for the admission of Utah; Act June 18, 1906, c. 3335, 34 Stat. 267, for the admission of Oklahoma; Act June 20, 1910, c. 310, 36 Stat. 557, and Res. Aug. 21, 1911, No. 8, 37 Stat. 39, for the admission of New Mexico and Arizona.

Provisions of these acts relating to the proceedings for the admission of the State into the Union, and the requisites and conditions thereof, and to the organization of the State government, are omitted, as temporary in their nature, and executed on or before the admission of the State; similar provisions of previous acts not having been incorporated into the Revised Statutes.

Other more permanent provisions of these acts, if still in force, are set forth, or, if superseded by later statutes, are referred to in connection with them, under the titles to which they relate respectively. Thus, provisions for Repre-
sentatives in Congress from each of such new States are set forth or referred to under Title II, "The Congress," c. 2; provisions for the organization of judicial districts and courts of the United States in such States, the terms of the courts and places and times of holding them, the appointment of district judges, and the appointment, duties, etc., of United States district attorneys, marshals, and clerks of the courts, under Title XII C, "The Judicial Code," c. 5; provisions granting to such States public lands, etc., for internal improvements, public buildings, support of schools, universities, etc., under Title XXXII, "The Public Lands," c. 10A; and those granting swamp and overflowed lands, etc., under the same Title, c. 10D.

The western boundary line of the State of Arkansas was extended by Act Feb. 10, 1905, c. 571, 33 Stat. 714.

The boundary line between the State of South Dakota and the State of Nebraska was established by Act March 1, 1905, c. 1295, 33 Stat. 820.

Consent of Congress to an agreement by the States of Missouri and Kansas fixing the boundary line between them and determining jurisdiction of offenses on the Missouri River was given by Res. June 7, 1910, No. 31, 36 Stat. 881.

Consent of Congress to an agreement by the States of Oregon and Washington fixing the boundary line between them was given Res. June 10, 1910, No. 22, 36 Stat. 891.

Consent of Congress to an agreement by the States of Wisconsin, Illinois, Indiana, and Michigan, determining jurisdiction of offenses on Lake Michigan, was given by Res. June 22, 1910, No. 34, 36 Stat. 882.

The boundary line between Texas and New Mexico was reaffirmed by Res. Feb. 16, 1811, No. 6, §§ 1–4, 36 Stat. 1454.

Consent of Congress was given to each of the States to enter into an agreement or compact with any other State or States for the purpose of conserving the forests and the water supply, by Act March 1, 1911, c. 196, § 1, set forth post, § 5174.

(1356)
TITLE XXIII

THE TERRITORIES AND INSULAR POSSESSIONS

This Title of the Revised Statutes was divided into three chapters, as follows:

Chapter 1. Provisions common to all the Territories.
Chapter 2. Of provisions concerning particular organized Territories.

At the time of the enactment of the Revised Statutes there were nine organized Territories: Utah, New Mexico, Washington, Colorado, Dakota, Arizona, Idaho, Montana, and Wyoming. All these have since been admitted as States into the Union, the Territory of Dakota constituting the States of North Dakota and South Dakota. See note at end of Title XXII, "The States." Thereby the provisions of Chapters 1 and 2 of this Title were superseded, except such provisions of Chapter 1 as may be applicable to Territories subsequently established or acquired.

After the enactment of the Revised Statutes, also, a temporary government for the Territory of Oklahoma was provided for by Act May 2, 1890, c. 182, 26 Stat. 81, and later provisions; the Indian Territory was defined, and provision made for its government and as to the laws applicable therein, by said Act May 2, 1890, c. 182, and later provisions, particularly Act June 28, 1898, c. 517, 30 Stat. 495; and the two Territories were admitted to the Union as the State of Oklahoma, pursuant to Act June 18, 1906, c. 3335, 34 Stat. 287, and thereby the application of any provisions of this Title to either of said Territories while existing as such was superseded.

The provisions of Chapter 3 of this Title, relating to the former unorganized Territory of Alaska, were also in part superseded or repealed by provisions relating or applicable to the Territory of Alaska, as constituted by Act Aug. 24, 1912, c. 387, 37 Stat. 512, which are placed under Chapter 3A, "Alaska," added to this Title, and as to the remaining part were amended and re-enacted or repealed by other subsequent acts. See notes to said Chapters 3 and 3A.

Besides said additional Chapter 3A, other chapters are added, in like manner, to include provisions relating to the several Territories or other insular possessions acquired since the enactment of the Revised Statutes.

Each of said additional chapters includes organic provisions for the government of the particular Territory and for the extension to it of the Constitution and laws of the United States in general, and other provisions especially made regarding it and with reference to its situation, conditions, etc. But all provisions relating to the operations of the government of the United States and the enforcement of its laws in the Territories, as part of a general system, such as the organization, jurisdiction, and proceedings of the United States courts, the disposal of the public lands, the collection of the revenue, the regulation of navigation, commerce, fisheries, etc., are placed in connection with the provisions of the Revised Statutes and of subsequent acts relating to those subjects, under other appropriate titles, and the codes or other bodies of law which have been enacted or adopted for particular Territories, embodying the general civil law, penal law, civil procedure, criminal procedure, etc., are omitted, as wholly local in their nature and operation.

(1857)
CHAPTER ONE
Provisions Common to All the Territories

3425. Rights of Indians in person and property not impaired by this Title, etc.; boundaries, etc.
3426. Authority to regulate Indians.
3427. Executive power.
3428. Veto power.
3429. Secretary.
3430. Secretary's duties.
3431. Secretary to furnish annual estimates for expenses of Territory to Secretary of the Treasury.
3432. Salaries of governors and secretaries.
3433. Legislative power.
3434. Census and election.
3435. Time and place of holding election.
3436. Apportionment.
3437. Laws to be submitted to Congress.
3438. Extent of legislative power.
3439. Limit of time of sessions.
3440. Extraordinary sessions.
3441. Compensation of members.
3442. Members of legislature prohibited from holding certain offices.
3443. Prohibition of extra compensation to certain officers.
3444. Election of justices of the peace and militia officers.
3445. Filling vacancy in office of justice of the peace.
3446. Other officers.
3447. Vacancies, how filled.
3448. Qualifications of voting and holding office at first election.
3449. At subsequent elections.
3450. Bigamists, etc., disqualified as voters and ineligible for office.
3451. Subordinate officers of legislature.
3452. Delegate to Congress.
3453. Time, places, and manner of electing Delegate.
3454. Supreme Courts of Territories.
3455. Judicial districts and courts.

3456. Jurisdiction of justices of the peace.
3457. Chancery and common-law jurisdiction.
3458. Common-law and chancery jurisdiction; exercise under codes, rules of practice, etc.
3459. Appellate jurisdiction of Supreme Court.
3460. Clerk of Supreme Court.
3461. Clerk of district court.
3462. Register in chancery; residence and office.
3463. Judicial districts; how defined.
3464. Judges of Supreme Court to hear certain causes.
3465. District attorneys.
3466. Marshals.
3467. Appointment of governor, etc.
3468. Oath of office; how qualified.
3469. Time of commencement of salaries of officers.
3470. When salaries to be paid, etc.
3471. Fees of clerks, etc.
3472. Costs of trials of Indians committing certain crimes.
3473. Salary not to be paid when officer is absent.
3474. Seat of government in a new Territory.
3475. Accounts of the Territories, no payments unless approved by Congress.
3476. Limitation on expenses of printing.
3477. Limitation on expenses of legislature.
3478. Legislatures not to grant special charters; general incorporation acts.
3479. Legislatures not to pass local or special laws in certain cases.
3480. Legislatures not prohibited from creating new counties and locating county seats thereof.
Ch. 1) THE TERRITORIES AND INSULAR POSSESSIONS

Sec. 3481. Legislatures not to subscribe to stock, etc., of any corporation, etc.

3482. Legislatures not to authorize debt except in certain cases; limitation of total indebtedness of Territory; refunding not prohibited.

3483. Limitation of indebtedness to be incurred by municipal corporations, counties, etc.; provisions of act not retroactive.

3484. Amendment of Act July 30, 1886, c. 818; permission for issuance of bonds by municipal corporations for sanitary, etc., purposes, construction of sewers, waterworks, and improvement of streets; election; form of bonds; sinking fund; rate of interest.

3485. Amendment of Act July 30, 1886, c. 818; permission for issuance of bonds by municipal corporations for erection of city buildings and purchase of sites; election, form of bonds; sinking fund; rate of interest; limit of issue.

3486. Act not to abridge the power of Congress to annul, etc., laws passed by Territorial legislatures.

3487. Subsequent acts of Territorial legislatures in conflict with this act, void.

3488. Divorce not to be granted without one year's previous residence of party applying therefore.

3489. Limitation on right of religious corporations to hold real estate.

3490. Acquisition or ownership of land in Territories by aliens, prohibited.

3491. Provisions of act not to apply to lands previously acquired by aliens, nor to aliens who become residents.

3492. Provisions of act not to prevent acquisition of lands by inheritance or in election of debts, nor acquisition and enforcement of liens, etc.

3493. Conveyance by aliens of lands held contrary to provisions of act, before institution of escheat proceedings.

3494. Proceedings for escheat.

3495. Condemnation and sale of lands; disposition of proceeds; dismai-

Sec. 3496. Provisions of act not to be construed to refer to District of Columbia, nor to authorize aliens to acquire public lands, nor to affect laws regulating disposal of public lands.

3497. Act March 2, 1897, c. 303, amended to extend to aliens in respect of real estate in District of Columbia.

3498. Acquisition of real estate in District of Columbia by aliens or alien corporations, prohibited.

3499. Acquisition of real estate in District of Columbia by corporations more than 20 per cent. of whose stock is owned by aliens, prohibited.

3500. Forfeiture of property acquired, held, or owned in violation of provisions of act; proceedings for enforcement.

3501. Ownership in District of Columbia of legations or of residences by representatives of foreign governments or attaches thereof.

3502. Inspection of coal mines; appointment and qualification of mine inspector.

3503. Mine inspectors; eligibility for appointment.

3504. Mine inspectors; duties; reports.

3505. Notice to owners and managers of unsafe condition of mine reported by mine inspector.

3506. Two shafts, slopes, etc., to be provided for each mine.

3507. Ventilation to be provided; prevention of accumulation of coal dust.

3508. Punishment for failure to comply with requirements of act.

3509. Furnace shaft not to be deemed escape shaft.

3510. Time for construction of escape shafts.

3511. Speaking tubes to be provided for shafts or slopes.

3512. Safety catches and covers overhead to be provided for hoisting apparatus; inspection of such apparatus.

3513. Children under twelve years not to be employed underground; punishment for violation of provisions.

(1359)
§ 3425. (R. S. § 1839.) Rights of Indians in person and property not impaired by this Title, etc.; boundaries, etc.

Nothing in this Title shall be construed to impair the rights of person or property pertaining to the Indians in any Territory, so long as such rights remain unextinguished by treaty between the United States and such Indians, or to include any Territory which, by treaty with any Indian tribe, is not, without the consent of such tribe, embraced within the territorial limits or jurisdiction of any State or Territory; but all such territory shall be excepted out of the boundaries, and constitute no part of any Territory now or hereafter organized until such tribe signifies its assent to the President to be embraced within a particular Territory.


§ 3426. (R. S. § 1840.) Authority to regulate Indians.

Nor shall anything in this Title be construed to affect the authority of the United States to make any regulations respecting the Indians of any Territory, their lands, property, or rights, by treaty, law, or otherwise, in the same manner as might be made if no temporary government existed, or is hereafter established, in any such Territory.


§ 3427. (R. S. § 1841.) Executive power.

The executive power of each Territory shall be vested in a governor, who shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the Pres-
ident. He shall reside in the Territory for which he is appointed, and shall be commander-in-chief of the militia thereof. He may grant pardons and reprieves, and remit fines and forfeitures, for offenses against the laws of the Territory for which he is appointed, and respite for offenses against the laws of the United States, till the decision of the President can be made known thereon. He shall commission all officers who are appointed under the laws of such Territory, and shall take care that the laws thereof be faithfully executed.


§ 3428. (R. S. § 1842.) Veto power.
Every bill which has passed the legislative assembly of any Territory shall, before it becomes a law, be presented to the governor. If he approve, he shall sign it, but if not, he shall return it, with his objections, to that house in which it originated, and that house shall enter the objections at large on its journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that house agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered; and, if approved by two-thirds of that house, it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for or against the bill shall be entered on the journal of each house. If any bill is not returned by the governor within three days, Sundays excluded, except in Washington and Wyoming, where the term is five days, Sundays excluded, after it has been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislative assembly, by adjournment sine die, prevent its return, in which case it shall not be a law.


This section was amended by Act Feb. 18, 1875, c. 18, § 1, 18 Stat. 318, by adding thereto a proviso that a part of the section specified should not apply to the Territories of Utah and Arizona. The amendment was superseded by the admission of those Territories to the Union as States, and is therefore omitted.

§ 3429. (R. S. § 1843.) Secretary.
There shall be appointed a secretary for each Territory, who shall reside within the Territory for which he is appointed, and shall hold his office for four years, and until his successor is appointed and qualified, unless sooner removed by the President. In case of the death, removal, resignation, or absence of the governor from
§ 3429. The Territories and Insular Possessions (Tit. 23)

the Territory, the secretary shall execute all the powers and perform all the duties of governor during such vacancy or absence or until another governor is appointed and qualified.


§ 3430. (R. S. § 1844.) Secretary's duties.

The secretary shall record and preserve all the laws and proceedings of the legislative assembly, and all the acts and proceedings of the governor in the executive department; he shall transmit one copy of the laws and journals of the legislative assembly, within thirty days after the end of each session thereof, to the President, and two copies of the laws, within like time, to the President of the Senate, and to the Speaker of the House of Representatives, for the use of Congress. He shall transmit one copy of the executive proceedings and official correspondence semi-annually, on the first day of January and July in each year, to the President. He shall prepare the acts passed by the legislative assembly for publication, and furnish a copy thereof to the public printer of the Territory, within ten days after the passage of each act.


The Secretary was required to furnish annual estimates for expenses of the Territory by a provision of Act June 20, 1874, c. 328, § 1, post, § 3431.

The Secretary of each Territory was required to furnish to the Surveyor-General a copy of every act of the legislature incorporating any city or town, by a provision of Act March 3, 1877, c. 118, § 3, 19 Stat. 302. That provision was superseded by the prohibition of the passage by the legislatures of the Territories of special acts incorporating cities or towns, by Act July 30, 1890, c. 518, § 1, post, § 3479.

§ 3431. (Act June 20, 1874, c. 328.) Secretary to furnish annual estimates for expenses of Territory to Secretary of the Treasury.

Hereafter it shall be the duty of the secretary of each Territory to furnish estimates in detail for the lawful expenses thereof, to be presented to the Secretary of the Treasury on or before the first day of October of every year. (18 Stat. 99.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1875, cited above.

The annual estimates for the public service were required to be furnished to the Secretary of the Treasury on or before October 10 of each year, by a provision of Act March 3, 1901, c. 1830, § 5, post, § 6734.

§ 3432. (R. S. § 1845.) Salaries of governors and secretaries.

From and after the first day of July, eighteen hundred and seventy-three, the annual salaries of the governors of the several (1362)
Territories shall be three thousand five hundred dollars, and the salaries of the secretaries shall be two thousand five hundred dollars each.


The amounts of the salaries of the governors and secretaries of particular territories are prescribed in provisions specifically relating thereto.

§ 3433. (R. S. § 1846.) Legislative power.

The legislative power in each Territory shall be vested in the governor and a legislative assembly. The legislative assembly shall consist of a council and house of representatives. The members of both branches of the legislative assembly shall have the qualifications of voters as herein prescribed. They shall be chosen for the term of two years, and the sessions of the respective legislative assemblies shall be biennial. Each legislative assembly shall fix by law the day of the commencement of its regular sessions. The members of the council and of the house of representatives shall reside in the district or county for which they are respectively elected.


§ 3434. (R. S. § 1847.) Census and election.

Previous to the first election for members of the legislative assembly of a Territory in which Congress may hereafter provide a temporary government, the governor shall cause a census of the inhabitants and qualified voters of the several counties and districts of the Territory to be taken by such persons and in such mode as he may designate and appoint, and the persons so appointed shall receive a reasonable compensation for their services. And the first election shall be held at such time and places, and be conducted in such manner, both as to the persons who superintend such election and the returns thereof, as the governor may direct; and he shall, at the same time, declare the number of members of the council and house of representatives to which each of the counties or districts is entitled under the act providing such temporary government for the particular Territory. The persons having the highest number of legal votes in each of the districts for members of the council shall be declared by the governor to be duly elected to the council; and the persons having the highest number of legal votes for the house of representatives shall be declared by the governor to be duly elected members of that house; but in case two or more persons voted for have an equal number of votes, and in case a vacancy otherwise occurs in either branch of the legislative assembly, the governor shall order a new election; and the persons thus elected to the legislative assembly shall meet at such place and on such day as the governor appoints.

§ 3435. (R. S. § 1848.) Time and place of holding election.

After such first election, however, the time, place, and manner of holding elections by the people in any newly-created Territory, as well as of holding all such elections in Territories now organized, shall be prescribed by the laws of each Territory.


§ 3436. (R. S. § 1849.) Apportionment.

The apportionment of representation, which the governor is authorized to make by section eighteen hundred and forty-seven, in the case of a Territory hereafter erected by Congress, shall be as nearly equal as practicable among the several districts and counties for such first election of the council and house of representatives, giving to each section of the Territory representation in the ratio of its population, except Indians not taxed; and thereafter in such new Territory, as well as in all Territories now organized, the legislative assemblies, respectively, may readjust and apportion the representation to the two houses thereof, among the several counties and districts, in such manner from time to time, as they deem just and proper; but the number of either house, as authorized by law, shall not be increased.


See note to R. S. § 1847, ante, § 3434.

§ 3437. (R. S. § 1850.) Laws to be submitted to Congress.

All laws passed by the legislative assembly and governor of any Territory shall be submitted to Congress, and if disapproved, shall be null and of no effect.


The portion of this section omitted here excepted "any territories of Colorado, Dakota, Idaho, Montana, and Wyoming." It was superseded by the admission of said territories to the Union as states.

The power of Congress to annul any law passed by a territorial legislature was not to be abridged by the act prohibiting the passage of local or special (1364)
§ 3438. (R. S. § 1851.) Extent of legislative power.
The legislative power of every Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States. But no law shall be passed interfering with the primary disposal of the soil; no tax shall be imposed upon the property of the United States; nor shall the lands or other property of non-residents be taxed higher than the lands or other property of residents.


Further provisions restricting the powers of the territorial legislatures were made by R. S. § 1880, Act July 30, 1886, c. 318, and subsequent acts, post, §§ 3479-3487.

§ 3439. (R. S. § 1852, as amended, Act Dec. 23, 1880, c. 7.) Limit of time of sessions.
The sessions of the legislative assemblies of the several Territories of the United States shall be limited to sixty days' duration.


This section, as enacted in the Revised Statutes, limited the duration of sessions to forty days. The time was increased to sixty days by amendment by Act Dec. 25, 1880, c. 7, last cited above.

§ 3440. (Act June 22, 1874, c. 388.) Extraordinary sessions.
Hereafter no extraordinary session of the legislature of any Territory, wherever the same is now authorized by law, shall be called until the reasons for the same have been presented to the President of the United States, and his approval thereof has been duly given. (18 Stat. 135.)

This was a provision of the deficiency appropriation act for the fiscal years 1873 and 1874, cited above.

(R. S. § 1853. Superseded.)
This section prescribed the compensation of members of territorial legislatures, and provided that they should receive "such mileage as now provided by law." It was superseded by provisions for lower rates of compensation, and so much of this section as was in conflict therewith was repealed, by Act June 19, 1878, c. 329, § 1, post, § 3441.

See note to R. S. § 1847, ante, § 3434.

§ 3441. (Act June 19, 1878, c. 329, § 1.) Compensation of members.
From and after the adjournment of the next session of the several Territorial Legislatures the council of each of the Territories of the United States shall not exceed twelve members and the House of Representatives of each shall not exceed twenty-four members, and the members of each branch of the said several legislatures shall receive a compensation of four dollars per day each during the sessions provided by law, and shall receive such mileage as the (1365)
law provides; and the President of the Council and the Speaker of the House of Representatives shall each receive six dollars per day for the same time. (20 Stat. 193.)

These were provisions of the legislative, executive, and judicial appropriation act for the fiscal year 1879, cited above.

Further provisions of this act directed the several legislatures at their next session to divide their respective territories into council districts not exceeding twelve and representative districts not exceeding twenty-four in any one of said territories, and repealed all parts of R. S. §§ 1847, 1849, 1863, in conflict therewith.

§ 3442. (R. S. § 1854.) Members of legislature prohibited from holding certain offices.

No member of the legislative assembly of any Territory now organized shall hold or be appointed to any office which has been created, or the salary or emoluments of which have been increased, while he was a member, during the term for which he was elected, and for one year after the expiration of such term; but this restriction shall not be applicable to members of the first legislative assembly in any Territory hereafter organized; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly, or shall hold any office under the government of any Territory.


A further provision of this section, that the exception of postmasters should not apply in the Territory of Washington, is omitted here as superseded by the admission of that territory to the Union as a state.

§ 3443. (R. S. § 1855.) Prohibition of extra compensation to certain officers.

No law of any territorial legislature shall be made or enforced by which the governor or secretary of a Territory, or the members or officers of any territorial legislature are paid any compensation other than that provided by the laws of the United States.


§ 3444. (R. S. § 1856.) Election of justices of the peace and militia officers.

Justices of the peace and all general officers of the militia in the several Territories shall be elected by the people in such manner as the respective legislatures may provide by law.

Act June 15, 1844, c. 69, § 2, 5 Stat. 671.

§ 3445. (Act April 16, 1880, c. 56.) Filling vacancy in office of justice of the peace.

When from any cause there shall be a vacancy in the office of justice of the peace in any of the Territories of the United States, it shall be lawful to fill such vacancy by appointment or election, in such manner as has been or may be provided by the governor and legislative assembly of such Territory: Provided, That such ap-
pointee, or person elected to fill such vacancy, shall hold office only until his successor shall be regularly elected and qualified as provided by law. (21 Stat. 74.)

This was an act entitled "An act relating to justices of the peace in the Territories."

§ 3446. (R. S. § 1857.) Other officers.

All township, district, and county officers, except justices of the peace and general officers of the militia, shall be appointed or elected in such manner as may be provided by the governor and legislative assembly of each Territory; and all other officers not herein otherwise provided for, the governor shall nominate, and by and with the advice and consent of the legislative council of each Territory, shall appoint; but, in the first instance, where a new Territory is hereafter created by Congress, the governor alone may appoint all the officers referred to in this and the preceding section and assign them to their respective townships, districts, and counties; and the officers so appointed shall hold their offices until the end of the first session of the legislative assembly.


§ 3447. (R. S. § 1858.) Vacancies how filled.

In any of the Territories, whenever a vacancy happens from resignation or death, during the recess of the legislative council, in any office which, under the organic act of any Territory, is to be filled by appointment of the governor, by and with the advice and consent of the council, the governor shall fill such vacancy by granting a commission, which shall expire at the end of the next session of the legislative council.

Act June 8, 1872, c. 544, 17 Stat. 335.

§ 3448. (R. S. § 1859.) Qualifications of voting and holding office at first election.

Every male citizen above the age of twenty-one, including persons who have legally declared their intention to become citizens in any Territory hereafter organized, and who are actual residents of such Territory at the time of the organization thereof, shall be entitled to vote at the first election in such Territory, and to hold any office therein; subject, nevertheless, to the limitations specified in the next section.


(1367)

At all subsequent elections, however, in any Territory hereafter organized by Congress, as well as at all elections in Territories already organized, the qualifications of voters and of holding office shall be such as may be prescribed by the legislative assembly of each Territory; subject, nevertheless, to the following restrictions on the power of the legislative assembly, namely:

First. The right of suffrage and of holding office shall be exercised only by citizens of the United States above the age of twenty-one years, and by those above that age who have declared on oath, before a competent court of record, their intention to become such, and have taken an oath to support the Constitution and Government of the United States.

Second. There shall be no denial of the elective franchise or of holding office to a citizen on account of race, color, or previous condition of servitude.

Third. No officer, soldier, seaman, mariner, or other person in the Army or Navy, or attached to troops in the service of the United States, shall be allowed to vote in any Territory, by reason of being on service therein, unless such Territory is, and has been for the period of six months, his permanent domicile.

Fourth. No person belonging to the Army or Navy shall be elected to or hold any civil office or appointment in any Territory, except officers of the Army on the retired list.


This section, as enacted in the Revised Statutes, was amended by adding to subdivision 4 thereof, at the end of the section, the words "except officers of the Army on the retired list," as set forth here, by Act March 3, 1883, c. 134, cited above.

§ 3450. (Act March 22, 1882, c. 47, § 8.) Bigamists, etc., disqualified as voters and ineligible for office.

No polygamist, bigamist, or any person cohabiting with more than one woman, and no woman cohabiting with any of the persons described as aforesaid in this section, in any Territory or other place over which the United States have exclusive jurisdiction, shall be entitled to vote at any election held in any such Territory, or other place, or be eligible for election or appointment to or be entitled to hold any office or place of public trust, honor, or emolument, in, under, or for any such Territory or place, or under the United States. (22 Stat. 31.)

This section was part of the Edmunds Act, to amend R. S. § 5332, in reference to bigamy, and for other purposes.

Section 1 of the act, amending said R. S. § 5332, and sections 3 and 4 thereof, were incorporated into the Criminal Code, in sections 313-315 thereof, post. §§ 10486-10488, and were repealed by section 341 thereof, post, § 10615. (1368)
Section 5 of the act was incorporated into the Judicial Code in section 288 thereof, ante, § 1265, and was repealed by section 297 thereof, ante, § 1274. Other sections of this act were temporary merely, and are omitted.

(R. S. § 1861. Repealed.)

This section prescribed the subordinate officers of the territorial legislatures and the compensation of each. It was repealed and a substitute in lieu thereof was enacted by Act June 19, 1878, c. 329, § 1, post, § 3451.

§ 3451. (Act June 19, 1878, c. 329, § 1.) Subordinate officers of legislature.

The subordinate officers of each branch of said Territorial legislatures shall consist of one chief clerk, who shall receive a compensation of six dollars per day; one enrolling and engrossing clerk at five dollars per day; sergeant-at-arms and doorkeeper, at five dollars per day; one messenger and watchman, at four dollars per day each; and one chaplain, at one dollar and fifty cents per day. Said sums shall be paid only during the sessions of said legislatures; and no greater number of officers or charges per diem shall be paid or allowed by the United States to any Territory. And section eighteen hundred and sixty-one of the Revised Statutes is hereby repealed, and this substituted in lieu thereof. (20 Stat. 193.)

These were provissons of the legislative, executive, and judicial appropiation acts for the fiscal year 1879, cited above.

The legislature of Alaska was authorized to elect the subordinate officers provided for in R. S. § 1861, for which these provisions were substituted, each of said subordinate officers to receive the compensation provided for in that section, by Act Aug. 24, 1912, c. 387, § 7, post, § 3554.

§ 3452. (R. S. § 1862.) Delegate to Congress.

Every Territory shall have the right to send a Delegate to the House of Representatives of the United States, to serve during each Congress, who shall be elected by the voters in the Territory qualified to elect members of the legislative assembly thereof. The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly. Every such Delegate shall have a seat in the House of Representatives, with the right of debating, but not of voting.

Act March 3, 1817, c. 42, § 1, 3 Stat. 363.

§ 3453. (R. S. § 1863.) Time, places, and manner of electing Delegate.

The first election of a Delegate in any Territory for which a temporary government is hereafter provided by Congress shall be held at the time and places and in the manner the governor of such Territory may direct, after at least sixty days' notice, to be given by proclamation; but at all subsequent elections therein, as well as at all elections for a Delegate in organized Territories, such time,
§ 3453. THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

places, and manner of holding the election shall be prescribed by the law of each Territory.

Act March 3, 1817, c. 42, § 1, 3 Stat. 368.

§ 3454. (R. S. § 1864.) Supreme Courts of Territories.

The supreme court of every Territory shall consist of a chief justice and two associate justices, any two of whom shall constitute a quorum, and they shall hold their offices for four years, and until their successors are appointed and qualified. They shall hold a term annually at the seat of government of the Territory for which they are respectively appointed.


§ 3455. (R. S. § 1865.) Judicial districts and courts.

Every Territory shall be divided into three judicial districts; and a district court shall be held in each district of the Territory by one of the justices of the supreme court, at such time and place as may be prescribed by law; and each judge, after assignment, shall reside in the district to which he is assigned.


(R. S. § 1866. Superseded.)

This section provided for the limitation by law of the jurisdiction, both appellate and original, of the courts provided for in R. S. §§ 1107, 1108, which sections prescribed the courts in which should be vested the judicial power in the then existing organized Territories. It was superseded, with the sections referred to, by the admission of all said territories to the Union as states.

§ 3456. (R. S. § 1867.) Jurisdiction of justices of the peace.

No justices of the peace in any Territory shall have jurisdiction of any case in which the title to land, or the boundary thereof, in anywise comes in question.


(1370)
§ 3457. (R. S. § 1868.) Chancery and common-law jurisdiction.
The supreme court and the district courts, respectively, of every
Territory, shall possess chancery as well as common law jurisdic-
tion.

N. M., Act Sept. 9, 1850, c. 49, § 10, 9 Stat. 449. Utah, Act Sept. 9, 1850,
c. 51, § 9, 9 Stat. 455. Wash., Act March 2, 1883, c. 90, § 9, 10 Stat. 175.
Colo., Act Feb. 28, 1861, c. 59, § 9, 12 Stat. 174. Dak., Act March 2, 1861,
Mont., May 26, 1864, c. 95, § 9, 13 Stat. 58. Wyo., Act July 25, 1893,

§ 3458. (Act April 7, 1874, c. 80, § 1.) Common-law and chancery
jurisdiction; exercise under codes, rules of practice, etc.

That it shall not be necessary in any of the courts of the several
Territories of the United States to exercise separately the common-
law and chancery jurisdictions vested in said courts; and that the
several codes and rules of practice adopted in said Territories re-
spectively, in so far as they authorize a mingling of said jurisdic-
tions or a uniform course of proceeding in all cases whether legal
or equitable, be confirmed; and that all proceedings heretofore had
or taken in said courts in conformity with said respective codes and
rules of practice, so far as relates to the form and mode of proceed-
ing, be, and the same are hereby, validated and confirmed: Pro-
vided, That no party has been or shall be deprived of the right of
trial by jury in cases cognizable at common-law. (18 Stat. 27.)

This section was part of an act entitled "An act concerning the practice in
territorial courts, and appeals therefrom."

A preamble preceding the enacting clause of the act was as follows:

"Whereas, by the organic acts establishing several of the Territories of the
United States, it is provided that certain courts thereof shall have common-
law and chancery jurisdiction, and doubts have been entertained whether said
jurisdictions must be exercised separately, or whether they may be exercised
together in the same proceeding, and whether the codes and rules of practice
adopted in said Territories which have authorized a mingling of said jurisdic-
tions in the same proceeding or a uniform course of proceeding in all cases
legal and equitable, are repugnant to the said organic acts respectively: There-
fore,
"Be it enacted," etc.

Section 2 of this act related to the exercise of the appellate jurisdiction of
the Supreme Court of the United States over the judgments and decrees of
territorial courts. It was superseded by subsequent provisions, particularly
those of Judicial Code, §§ 244–249, ante, §§ 1221–1226.

§ 3459. (R. S. § 1859.) Appellate jurisdiction of Supreme Court.
Writs of error, bills of exception, and appeals shall be allowed, in
all cases, from the final decisions of the district courts to the supre-
court of all Territories, respectively, under such regulation
as may be prescribed by law; but in no case removed to the supre-
court shall trial by jury be allowed in that court.

N. M., Act Sept. 9, 1850, c. 49, § 10, 9 Stat. 449. Utah, Act Sept. 9, 1850,
c. 51, § 9, 9 Stat. 455. Wash., Act March 2, 1883, c. 90, § 9, 10 Stat. 175.
Colo., Act Feb. 28, 1861, c. 59, § 9, 12 Stat. 174. Dak., Act March 2, 1861,
Mont., May 26, 1864, c. 95, § 9, 13 Stat. 58. Wyo., Act July 25, 1893,

(1371)
§ 3460. (R. S. § 1870.) Clerk of Supreme Court.

The supreme court of each Territory shall appoint its own clerk, who shall hold his office at the pleasure of the court for which he is appointed.


§ 3461. (R. S. § 1871.) Clerk of district court.

Each judge of the supreme court of the respective Territories shall designate and appoint one person as clerk of the district over which he resides, where one is not already appointed, and shall designate and retain but one such clerk where more than one is already appointed, and only such district clerk shall be entitled to a compensation from the United States.


§ 3462. (R. S. § 1872.) Register in chancery; residence and office.

Every district clerk shall be also the register in chancery, and shall reside and keep his office at the place where the court is held.


§ 3463. (R. S. § 1873.) Judicial districts; how defined.

Temporarily, and until otherwise provided by law, the governor of every Territory which may be hereafter established shall define, by proclamation, the judicial districts of such Territory, and assign the judges appointed for such Territory to the several districts as well as fix the times and places for holding courts in the respective counties or subdivisions of each judicial district.


§ 3464. (R. S. § 1874.) Judges of Supreme Court to hear certain causes.

The judges of the supreme court of each Territory are authorized to hold court within their respective districts, in the counties where-in, by the laws of the Territory, courts have been or may be estab-
lished, for the purpose of hearing and determining all matters and causes, except those in which the United States is a party; but the expense of holding such courts shall be paid by the Territory, or by the counties in which the courts are held, and the United States shall in no case be chargeable therewith.

Act June 14, 1858, c. 166, 11 Stat. 366.

§ 3465. (R. S. § 1875.) District attorneys.
There shall be appointed in each Territory a person learned in the law, to act as attorney for the United States. He shall continue in office for four years, and until his successor is appointed and qualified, unless sooner removed by the President.


§ 3466. (R. S. § 1876.) Marshals.
There shall be appointed a marshal for each Territory. He shall execute all process issuing from the territorial courts when exercising their jurisdiction as circuit and district courts of the United States. He shall have the power and perform the duties, and be subject to the regulations and penalties, imposed by law on the marshals for the several judicial districts of the United States. He shall hold his office for four years and until his successor is appointed and qualified, unless sooner removed by the President.


§ 3467. (R. S. § 1877.) Appointment of governor, etc.
The governor, secretary, chief justice, and associate justices, attorney, and marshal of every Territory shall be nominated and, by and with the advice and consent of the Senate, appointed by the President.


§ 3468. (R. S. § 1878.) Oath of office; how qualified.
The governor and secretary for each Territory shall, before they act as such, respectively take an oath before the district judge, or some justice of the peace in the limits of the Territory for which they are appointed, duly authorized to administer oaths by the laws (1873)
in force therein, or before the Chief Justice or some associate justice of the Supreme Court of the United States, to support the Constitution of the United States and faithfully to discharge the duties of their respective offices; and such oaths shall be certified by the person before whom the same are taken; and such certificates shall be received and recorded by the secretary among the executive proceedings; and the chief justice and associate justices, and all other civil officers appointed for any Territory, before they act as such, shall take a like oath before the governor or secretary, or some judge or justice of the peace of the Territory who may be duly commissioned and qualified, and such oath shall be certified and transmitted by the person taking the same to the secretary, to be by him recorded as above directed; but after the first qualification of the officers herein specified in the case of a new Territory, as well as in all organized Territories, the like oath shall be taken, certified, and recorded in such manner and form as may be prescribed by the law of each Territory.


This section was not to apply to the Philippine Islands, by a provision of Act July 1, 1902, c. 1309, § 1, post, § 3904.

§ 3469. (Act May 1, 1876, c. 88.) Time of commencement of salaries of officers.

Hereafter payment of salaries of all officers of the Territories of the United States appointed by the President shall commence only when the person appointed to any such office shall take the proper oath, and shall enter upon the duties of such office in such Territory; and said oath shall hereafter be administered in the Territory in which such office is held. (19 Stat. 43.)

This was a provision of the deficiency appropriation act for the fiscal year 1876, cited above.

(R. S. § 1879. Superseded.)

This section fixed the annual salaries of the chief justice and associate justices “of all the Territories now organized” at $3,000 each. It was superseded by the admission of all the organized Territories then existing to the Union as states.

(R. S. §§ 1880, 1881. Superseded.)

These sections prescribed the amounts of the salaries of the attorney of the United States and of the marshal for each territory. They were superseded by different provisions, prescribing the salaries and other compensation of district attorneys and marshals for particular districts, including the organized territories then existing of Act May 28, 1866, c. 252, §§ 6, 7, 9-15, and subsequent acts, ante, §§ 1418, 1419, 1421-1427.

§ 3470. (R. S. § 1882.) When salaries to be paid, etc.
The salaries provided for in this Title, to be paid to the governor, secretary, chief justices and associate justices, [district attorney, (1874)
and marshal] of the several Territories, shall be paid quarter-yearly at the Treasury of the United States.


The words of this section inclosed in brackets, "district attorney, and marshal," were superseded by subsequent provisions for payment of the salaries of those officers monthly by the Department of Justice, of Act May 25, 1890, c. 252, § 16, ante, § 128.

§ 3471. (R. S. § 1883.) Fees of clerks, etc.

The fees and costs to be allowed to the United States attorneys and marshals, to the clerks of the supreme and district courts, and to jurors, witnesses, commissioners, and printers, in the Territories of the United States shall be the same for similar services by such persons as prescribed in chapter sixteen, Title "The Judiciary," and no other compensation shall be taxed or allowed.


Chapter 16 of Title XIII, "The Judiciary," of the Revised Statutes, mentioned in this section, with subsequent provisions relating to the fees of the officers and other persons mentioned, is set forth ante, §§ 1375–1463.

§ 3472. (Act March 2, 1889, c. 412, § 11.) Costs of trials of Indians committing certain crimes.

Hereafter the costs of the trial of the cases in the courts of the several Territories tried pursuant to and for the offenses named in section nine of the act entitled "An act making appropriations for the current and contingent expenses of the Indian Department, and fulfilling treaty stipulations with various Indian tribes for the year ending June thirtieth, eighteen hundred and eighty-six and for other purposes," shall be audited by the accounting officers of the Treasury and paid out of money for similar expenses in the trial of criminal cases in the courts of the United States. (25 Stat. 1004.)

This section was part of the Indian appropriation act for the fiscal year 1890, cited above.

Act March 3, 1885, c. 341, § 9, 23 Stat. 385, mentioned in this section, relating to the punishment of certain offenses by Indians, as repealed in part by Act Jan. 15, 1897, c. 29, § 5, 29 Stat. 487, was incorporated into the Criminal Code, in section 328 thereof, post, § 10602, and was repealed by section 341 of said code, post, § 10615.

§ 3473. (R. S. § 1884.) Salary not to be paid when officer is absent.

When any officer of a Territory is absent therefrom, and from the duties of his office, no salary shall be paid him during the year in which such absence occurs, unless good cause therefor be shown
to the President, who shall officially certify his opinion of such cause to the proper accounting officer of the Treasury, to be filed in his office.

Act June 15, 1852, c. 49, § 1, 10 Stat. 10.

§ 3474. (R. S. § 1885.) Seat of government in a new Territory.
The legislative assembly of every Territory hereafter organized shall hold its first session at such time and place in the Territory as the governor thereof shall appoint and direct; and at the first session of the legislative assembly, or as soon thereafter as it may be deemed expedient, the governor and legislative assembly shall proceed to locate and establish the seat of government for the Territory at such place as they may think proper; but such place shall thereafter be subject to be changed by the governor and legislative assembly.


§ 3475. (R. S. § 1886.) Accounts of the Territories, no payments unless approved by Congress.
All accounts for disbursements, in the Territories of the United States, of money appropriated by Congress for the support of government therein, shall be settled and adjusted at the Treasury Department; and no act, resolution, or order of the legislature of any Territory, directing the expenditure of the sum, shall be deemed a sufficient authority for such disbursement, but sufficient vouchers and proof for the same shall be required by the accounting officers of the Treasury. No payment shall be made or allowed, unless the Secretary of the Treasury has estimated therefor and the object been approved by Congress. No session of the legislature of a Territory shall be held until the appropriation for its expenses has been made.


(R. S. § 1887. Superseded.)
This section provided that no expense for printing, exceeding $4,000, including printing laws, journals, bills, and necessary printing of the same nature, should be incurred for any session of the legislature of any of the Territories. It was superseded by a provision limiting the expenditure for public printing in any of the Territories to $2,500 for any one year, of Act June 19, 1878, c. 329, § 1, 20 Stat. 193, and by a provision of the same nature as this section, limiting the expense for printing for any session of the legislature to $3,750, of Act Aug. 5, 1882, c. 389, § 1, post. § 3476.

§ 3476. (Act Aug. 5, 1882, c. 389, § 1.) Limitation on expenses of printing.
Hereafter no expense for printing, exceeding three thousand seven hundred and fifty dollars, including printing laws, journals, bills, (1376)
and necessary printing of the same nature, shall be incurred for any session of the legislature of any of the Territories. (22 Stat. 236.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1883, cited above.

This provision superseded R. S. § 1887, which limited the expense for printing, described in the same words, to $4,000 for any session, and also superseded a subsequent provision that the expenditure for public printing in any of the Territories should not exceed $2,000 for any one year, of Act June 19, 1875, c. 230, § 1, 20 Stat. 193.

§ 3477. (R. S. § 1888.) Limitation on expenses of legislature.

No legislative assembly of a Territory shall, in any instance or under any pretext, exceed the amount appropriated by Congress for its annual expenses.

Act May 18, 1842, c. 29, No. 117, 5 Stat. 480.

§ 3478. (R. S. § 1889, as amended, Act July 30, 1886, c. 818, § 5.) Legislatures not to grant special charters; general incorporation acts.

The legislative assemblies of the several Territories shall not grant private charters or special privileges, but they may, by general incorporation acts, permit persons to associate themselves together as bodies corporate for mining, manufacturing, and other industrial pursuits, and for conducting the business of insurance, banks of discount and deposit (but not of issue) loan, trust, and guarantee associations, and for the construction or operation of rail-roads, wagon-roads, irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable, or scientific association.


This section, as enacted in the Revised Statutes, authorized general incorporation acts "for mining, manufacturing, and other industrial pursuits, or the construction or operation of railroads, wagon-roads, irrigating-ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any benevolent, charitable or scientific association." It was amended to read as set forth here by Act July 30, 1886, c. 818, § 5, last cited above.

Other sections of said Act July 30, 1886, c. 818, prohibiting the passage of special laws in certain cases, are set forth post, §§ 3479, 3481–3483.

The words of this section of the Revised Statutes, "The legislative assemblies of the several Territories shall not grant private charters or special privileges," were not to be construed as prohibiting the legislative assemblies of the several Territories of the United States from creating towns, cities, or other municipal corporations, and providing for the government of the same, and conferring upon them the corporate powers and privileges, necessary to their local administration, by either general or special acts; and all such general and special acts of such legislative assemblies theretofore passed were ratified by Act June 8, 1878, c. 168, 20 Stat. 101. But that provision for the construction of the words quoted was superseded by the subsequent prohibition of the passage of special laws in certain cases specified, among them "incorporating cities, towns, or villages, or changing or amending the charter of any city, town, or village," by Act July 30, 1886, c. 818, § 1, post, § 3479.

§ 3479. (July 30, 1886, c. 818, § 1.) Legislatures not to pass local or special laws in certain cases.

The legislatures of the Territories of the United States now or

Comp.St.'13–87

(1877)
hereafter to be organized shall not pass local or special laws in any of the following enumerated cases, that is to say:

Granting divorces.
Changing the names of persons or places.
Laying out, opening, altering and working roads or highways.
Vacating roads, town-plats, streets, alleys, and public grounds.
Locating or changing county seats.
Regulating county and township affairs.
Regulating the practice in courts of justice.
Regulating the jurisdiction and duties of justices of the peace, police magistrates, and constables.
Providing for changes of venue in civil and criminal cases.
Incorporating cities, towns, or villages, or changing or amending the charter of any town, city, or village.
For the punishment of crimes or misdemeanors.
For the assessment and collection of taxes for Territorial, county, township, or road purposes.
Summoning and impaneling grand or petit jurors.
Providing for the management of common schools.
Regulating the rate of interest on money.
The opening and conducting of any election or designating the place of voting.
The sale or mortgage of real estate belonging to minors or others under disability.
The protection of game or fish.
Chartering or licensing ferries or toll bridges.
Remitting fines, penalties, or forfeitures.
Creating, increasing, or decreasing fees, percentage, or allowances of public officers during the term for which said officers are elected or appointed.
Changing the law of descent.
Granting to any corporation, association, or individual the right to lay down railroad tracks, or amending existing charters for such purpose.
Granting to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise whatever.
In all other cases where a general law can be made applicable, no special law shall be enacted in any of the Territories of the United States by the Territorial legislatures thereof. (24 Stat. 170.)

This section was part of an act entitled, "An act to prohibit the passage of local or special laws in the Territories of the United States, to limit Territorial indebtedness, and for other purposes."

Sections 2–4 of the act are set forth post, §§ 3481–3483.
Section 5 of the act amended R. S. § 1888, and is incorporated in that section as set forth ante, § 3478.
Sections 6, 7, of the act are set forth post, §§ 3486, 3487.
Nothing in this act was to be construed to prohibit the creation of new counties and the location of county seats thereof, by Act July 19, 1888, c. 679, # 2, post, § 3480.
An amendment of this act, so as to authorize the issuance of bonds by certain school districts in Oklahoma Territory, by Act June 19, 1902, c. 1135.
§ 3480. (Act July 19, 1888, c. 679, § 2.) Legislatures not prohibited from creating new counties and locating county seats thereof.

Nothing in the act approved July thirty-first, eighteen hundred and eighty-six, entitled an act "to prohibit the passage of local or special laws in the Territories of the United States, to limit Territorial indebtedness, and for other purposes," shall be construed to prohibit the creation by Territorial legislatures of new counties and the location of the county seats thereof. (25 Stat. 336.)

This section was part of an act, the preceding section of which ratified an act of the legislative assembly of the Territory of New Mexico, creating a new county in that territory.

Act July 30, 1886, c. 818, § 1, mentioned in this section, prohibiting the passage of local or special laws, is set forth ante, § 3479.

§ 3481. (Act July 30, 1886, c. 818, § 2.) Legislatures not to subscribe to stock, etc., of any corporation, etc.

No Territory of the United States now or hereafter to be organized, or any political or municipal corporation or sub-division of any such Territory, shall hereafter make any subscription to the capital stock of any incorporated company, or company or association having corporate powers, or in any manner loan its credit to or use it for the benefit of any such company or association, or borrow any money for the use of any such company or association. (24 Stat. 171.)

See note to section 1 of this act, ante, § 3479.

§ 3482. (Act July 30, 1886, c. 818, § 3.) Legislatures not to authorize debt except in certain cases; limitation of total indebtedness of Territory; refunding not prohibited.

No law of any Territorial legislature shall authorize any debt to be contracted by or on behalf of such Territory except in the following cases: To meet a casual deficit in the revenues, to pay the interest upon the Territorial debt, to suppress insurrections, or to provide for the public defense, except that in addition to any indebtedness created for such purposes, the legislature may authorize a loan for the erection of penal, charitable or educational institutions for such Territory, if the final indebtedness of the Territory is not thereby made to exceed one per centum upon the assessed value of the taxable property in such Territory as shown by the last general assessment for taxation. And nothing in this act shall be construed to prohibit the refunding of any existing indebtedness of such Territory or of any political or municipal corporation, county, or other sub-division therein. (24 Stat. 171.)

§ 3483. (Act July 30, 1886, c. 818, § 4.) Limitation of indebtedness to be incurred by municipal corporations, counties, etc.; provisions of act not retroactive.

No political or municipal corporation, county, or other subdivision in any of the Territories of the United States shall ever become indebted in any manner or for any purpose to any amount in the aggregate, including existing indebtedness, exceeding four
§ 3483 THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

per centum on the value of the taxable property within such corporation, county, or subdivision, to be ascertained by the last assessment for Territorial and county taxes previous to the incurring of such indebtedness; and all bonds or obligations in excess of such amount given by such corporation shall be void: That nothing in this act contained shall be so construed as to affect the validity of any act of any Territorial legislature heretofore enacted, or of any obligations existing or contracted thereunder, nor to preclude the issuing of bonds already contracted for in pursuance of express provisions of law; nor to prevent any Territorial legislature from legalizing the acts of any county, municipal corporation, or subdivision of any territory as to any bonds heretofore issued or contracted to be issued. (24 Stat. 171.)

Subsequent provisions amending this act so as to permit municipal corporations having a population of not less than 1,000 persons to issue bonds for sanitary and other purposes, and municipal corporations having a population of not less than 10,000 persons to issue bonds for erecting city buildings and purchasing sites for the same, were made by Act March 4, 1898, c. 35, and Act June 6, 1900, c. 820, post, §§ 3484, 3485.

§ 3484. (Act March 4, 1898, c. 35.) Amendment of Act July 30, 1886, c. 818; permission for issuance of bonds by municipal corporations for sanitary, etc., purposes, construction of sewers, waterworks, and improvement of streets; election; form of bonds; sinking fund; rate of interest.

The Act of Congress approved July thirtieth, eighteen hundred and eighty-six, entitled "An act to prohibit the passage of local or special laws in the Territories of the United States, to limit Territorial indebtedness, and for other purposes," is hereby amended so as to permit, authorize, and legalize the issuance of bonds by chartered municipal corporations having a bona fide population of not less than one thousand persons, as shown by the last school census taken before any election to be held under the provisions of this Act, in any Territory of the United States, for sanitary and health purposes the construction of sewers, waterworks, and the improvement of streets. The limitations of said Act of July thirtieth, eighteen hundred and eighty-six, shall not apply to such municipal corporations: Provided, That before any bonds shall be issued the mayor and common council of said chartered municipal corporations shall cause an election to be held in such city or town, and the mayor and common council of such municipal corporation shall cause to be published, in a newspaper of general circulation published in such city or town, a notice of the time and place or places of holding such election. Such notice shall be given at least thirty days before such election. On the question of the issuance of said bonds no person shall be qualified to vote except he be in all respects a qualified elector and owner of real or personal property subject to taxation within the municipality. In case two-thirds of the qualified voters, as above described, shall vote affirmatively for the issuance of said bonds, then the mayor and common council shall issue the same, and not otherwise. Said bonds shall contain all necessary provisions as to form, and such municipality shall pro-
vide a proper sinking fund for the redemption of said bonds. Said bonds shall not bear a rate of interest exceeding six per centum per annum, and the interest shall be paid semiannually, and none of said bonds shall be sold at less than their par value. (30 Stat. 252.)

Act July 30, 1886, c. 818, § 4, mentioned in this act, limiting indebtedness to be incurred by municipal corporations, is set forth ante, post, § 3483.

§ 3485. (Act June 6, 1900, c. 820.) Amendment of Act July 30, 1886, c. 818; permission for issuance of bonds by municipal corporations for erection of city buildings and purchase of sites; election, form of bonds; sinking fund; rate of interest; limit of issue.

The Act of Congress approved July thirtieth, eighteen hundred and eighty-six, entitled “An Act to prohibit the passage of local or special laws of the Territories of the United States, to limit Territorial indebtedness, and for other purposes,” is hereby amended so as to permit, authorize, and legalize the issuance of bonds by chartered municipal corporations having a bona fide population of not less than ten thousand persons, in any Territory of the United States, for erecting a city building and purchasing the ground for the same. The limitations of said Act of July thirtieth, eighteen hundred and eighty-six, shall not apply to such municipal corporations: Provided, That before any bonds shall be issued the mayor and common council of such municipal corporation shall cause an election to be held in such city or town, and the mayor and common council of such municipal corporation shall cause to be published in a newspaper of general circulation published in said city or town a notice of the time and place or places of holding such election. Such notice shall be given not more than sixty nor less than thirty days before such election. On the question of the issuance of said bonds no person shall be qualified to vote except he be in all respects a qualified elector and owner of real or personal property subject to taxation within the municipality. In case two-thirds of the qualified voters, as above described, shall vote affirmatively for the issuance of said bonds, then the mayor and common council shall issue the same, and not otherwise. Said bonds shall contain all necessary provisions as to form, and such municipality shall provide a proper sinking fund for the redemption of said bonds. Said bonds shall not bear a rate of interest exceeding five per centum, and the interest shall be paid semiannually, and none of said bonds shall be sold at less than their par value: Provided further, That no city under this Act shall issue bonds in excess of thirty thousand dollars. (31 Stat. 683.)

Act July 30, 1886, c. 818, § 4, mentioned in this act, limiting indebtedness to be incurred by municipal corporations, is set forth ante, § 3483.

§ 3486. (Act July 30, 1886, c. 818, § 6.) Act not to abridge the power of Congress to annul, etc., laws passed by Territorial legislatures.

Nothing in this act contained shall be construed to abridge the power of Congress to annul any law passed by a Territorial legis-

(1881)
§ 3486. The Territories and Insular Possessions (Tit. 23)

lature, or to modify any existing law of Congress requiring in any case that the laws of any Territory shall be submitted to Congress. (24 Stat. 171.)

The preceding sections of this act are set forth ante, §§ 3479, 3481-3483.

§ 3487. (Act July 30, 1886, c. 818, § 7.) Subsequent acts of Territorial legislatures in conflict with this act, void.

All acts and parts of acts hereafter passed by any Territorial legislature in conflict with the provisions of this act shall be null and void. (24 Stat. 171.)

Other sections of this act are set forth ante, §§ 3479, 3481-3483, 3486.

§ 3488. (Act May 25, 1896, c. 241.) Divorce not to be granted without one year's previous residence of party applying therefor.

No divorce shall be granted in any Territory for any cause unless the party applying for the divorce shall have resided continuously in the Territory for one year next preceding the application. (29 Stat. 136.)

This was an act entitled "An act making one year's residence in a territory a pre-requisite to obtaining a divorce there."

A proviso annexed to the act, that it should not affect any action pending at the date of the passage thereof, is omitted here, as temporary merely.

§ 3489. (R. S. § 1890.) Limitation on right of religious corporations to hold real estate.

No corporation or association for religious or charitable purposes shall acquire or hold real estate in any Territory, during the existence of the territorial government, of a greater value than fifty thousand dollars; and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States; but existing vested rights in real estate shall not be impaired by the provisions of this section.

Act July 1, 1892, c. 126, § 3, 12 Stat. 501.

§ 3490. (Act March 2, 1897, c. 363, § 1.) Acquisition or ownership of land in Territories by aliens, prohibited.

No alien or person who is not a citizen of the United States, or who has not declared his intention to become a citizen of the United States in the manner provided by law shall acquire title to or own any land in any of the Territories of the United States except as hereinafter provided: Provided, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty, shall continue to exist so long as such treaties are in force, and no longer. (29 Stat. 618.)

This section and the six sections next following were an act entitled "An act to better define and regulate the rights of aliens to hold and own real estate in the Territories."

Immediately following the enacting clause, and preceding this section, it provided:

"That an Act entitled 'An Act to restrict the ownership of real estate in the Territories to American citizens, and so forth,' approved March third, eighteen hundred and eighty-seven, except so far as it affects real estate in the (1882)
§ 3492. (Act March 2, 1897, c. 363, § 3.) Provisions of act not to prevent acquisition of lands by inheritance or in collection of debts, nor acquisition and enforcement of liens, etc.

This Act shall not prevent aliens from acquiring lands or any interests therein by inheritance or in the ordinary course of justice in the collection of debts, nor from acquiring liens on real estate or any interest therein, nor from lending money and securing the same upon real estate or any interest therein; nor from enforcing any such lien, nor from acquiring and holding title to such real estate, or any interest therein, upon which a lien may have heretofore or may hereafter be fixed, or upon which a loan of money may have been heretofore or hereafter may be made and secured: Provided, however, That all lands so acquired shall be sold within ten years after title shall be perfected in him under said sale or the same shall escheat to the United States and be forfeited as hereinafter provided. (29 Stat. 618.) (1383)
§ 3493. (Act March 2, 1897, c. 363, § 4.) Conveyance by aliens of lands held contrary to provisions of act, before institution of escheat proceedings.

Any alien who shall hereafter hold lands in any of the Territories of the United States in contravention of the provisions of this Act may nevertheless convey his title thereto at any time before the institution of escheat proceedings as hereinafter provided: Provided, however, That if any such conveyance shall be made by such alien, either to an alien or to a citizen of the United States, in trust and for the purpose and with the intention of evading the provisions of this Act, such conveyance shall be null and void, and any such lands so conveyed shall be forfeited and escheat to the United States. (29 Stat. 618.)

The rights and privileges conferred by this act upon aliens concerning the acquisition, holding, owning, and disposition of real estate in the Territories, were extended to them in respect of real estate in the District of Columbia, by Act Feb. 26, 1906, c. 733, post., § 3497.

§ 3494. (Act March 2, 1897, c. 363, § 5.) Proceedings for escheat.

It shall be the duty of the Attorney-General of the United States, when he shall be informed or have reason to believe that land in any of the Territories of the United States are being held contrary to the provisions of this Act, to institute or cause to be instituted suit in behalf of the United States in the district court of the Territory in the district where such land or a part thereof may be situated, praying for the escheat of the same on behalf of the United States: Provided, That before any such suit is instituted the Attorney-General shall give or cause to be given ninety days' notice by registered letter of his intention to sue, or by personal notice directed to or delivered to the owner of said land, or the person who last rendered the same for taxation, or his agent, and to all other persons having an interest in such lands of which he may have actual or constructive notice. In the event personal notice can not be obtained in some one of the modes above provided, then said notice shall be given by publication in some newspaper published in the county where the land is situate, and if no newspaper is published in said county then the said notice shall be published in some newspaper nearest said county. (29 Stat. 619.)

§ 3495. (Act March 2, 1897, c. 363, § 6.) Condemnation and sale of lands; disposition of proceeds; dismissal of suit upon alien conforming to law, etc.

If it shall be determined upon the trial of any such escheat proceedings that the lands are held contrary to the provisions of this Act, the court trying said cause shall render judgment condemning such lands and shall order the same to be sold as under execution; and the proceeds of such sale, after deducting costs of such suit, shall be paid to the clerk of such court so rendering judgment, and said fund shall remain in the hands of such clerk for one year from the date of such payment, subject to the order of the alien owner of such lands, or his heirs or legal representatives; and if not claimed within the period of one year, such clerk shall pay the same
into the treasury of the Territory in which the lands may be situated, for the benefit of the available school fund of said Territory: Provided, That the defendant in any such escheat proceedings may, at any time, before final judgment, suggest and show to the court that he has conformed with the law, either becoming a bona fide resident of the United States, or by declaring his intention of becoming a citizen of the United States, or by the doing or happening of any other act which, under the provisions of this Act, would entitle him to hold or own real estate, which being admitted or proved, such suit shall be dismissed on payment of costs and a reasonable attorney fee to be fixed by the court. (29 Stat. 619.)

§ 3496. (Act March 2, 1897, c. 363, § 7.) Provisions of act not to be construed to refer to District of Columbia, nor to authorize aliens to acquire public lands, nor to affect laws regulating disposal of public lands.

This Act shall not in any manner be construed to refer to the District of Columbia, nor to authorize aliens to acquire title from the United States to any of the public lands of the United States or to in any manner affect or change the laws regulating the disposal of the public lands of the United States. And the Act of which this Act is an amendment shall remain in force and unchanged by this Act so far as it refers to or affects real estate in the District of Columbia. (29 Stat. 619.)

Act March 3, 1887, c. 340, of which this act is an amendment, mentioned in this section, is set forth post, §§ 3493-3500. See notes to section 1 of this act, ante, § 3490.

This act was amended so as to extend to aliens the same rights and privileges concerning the acquisition, holding, owning, and disposition of real estate in the District of Columbia as were conferred by it upon them in respect of real estate in the Territories, by Act Feb. 23, 1905, c. 733, post, § 3497.

§ 3497. (Act Feb. 23, 1905, c. 733.) Act March 2, 1897, c. 363, amended to extend to aliens in respect of real estate in District of Columbia.

That the Act entitled "An Act to better define and regulate the rights of aliens to hold and own real estate in the Territories," approved March second, eighteen hundred and ninety-seven, be, and the same is hereby, amended so as to extend to aliens the same rights and privileges concerning the acquisition, holding, owning, and disposition of real estate in the District of Columbia as by that Act are conferred upon them in respect of real estate in the Territories of the United States. (33 Stat. 733.)

This act was entitled "An act to amend Act March 2, 1897."

Said Act March 2, 1897, c. 363, so amended by this act, is set forth ante, §§ 3490-3496. It amended the previous Act March 3, 1887, c. 340, post, §§ 3493-3500, which related to the same subject, except so far as said previous act affected real estate in the District of Columbia.

§ 3498. (Act March 3, 1887, c. 340, § 1.) Acquisition of real estate in District of Columbia by aliens or alien corporations, prohibited.

It shall be unlawful for any person or persons not citizens of (1885)
§ 3498  THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

the United States, or who have not lawfully declared their intention to become such citizens, or for any corporation not created by or under the laws of the United States or of some State or Territory of the United States, to hereafter acquire, hold, or own real estate so hereafter acquired, or any interest therein, [in any of the Territories of the United States or] in the District of Columbia, except such as may be acquired by inheritance or in good faith in the ordinary course of justice in the collection of debts heretofore created: Provided, That the prohibition of this section shall not apply to cases in which the right to hold or dispose of lands in the United States is secured by existing treaties to the citizens or subjects of foreign countries, which rights, so far as they may exist by force of any such treaty shall continue to exist so long as such treaties are in force, and no longer. (24 Stat. 476.)

This section was part of an act entitled "An act to restrict the ownership of real estate in the territories to American citizens, and so forth."
The words of this section inclosed in brackets, "in any of the Territories of the United States or," were superseded by the amendment of this act, substituting other provisions therefor, but providing that it should remain in force as to real estate in the District of Columbia, by Act March 2, 1897, c. 363, ante, §§ 3490-3496.
Sections 2 and 4 of the act are set forth post, §§ 3499, 3500.
Section 3 of the act limited the amount of land which could be acquired, held, or owned by corporations in any of the territories. As these provisions did not affect real estate in the District of Columbia, they may be regarded as superseded or impliedly repealed by the amendment of this act by Act March 2, 1897, c. 363, ante, §§ 3490-3496.
This act was not to apply to or operate in the District of Columbia, so far as relates to the ownership of legations, or the ownership of residences by representatives of foreign governments, or attaches thereof, by an amendment of the act by Act March 9, 1888, c. 30, post, § 3501.
This act, except so far as it affects real estate in the District of Columbia, was superseded by amendment, substituting other provisions therefor, but providing that it should remain in force so far as it referred to or affected real estate in the District of Columbia, in Act March 2, 1897, c. 363, ante, §§ 3490-3496. And that act was amended, so as to extend to aliens the same rights and privileges concerning the acquisition, holding, owning, and disposition of real estate in the District of Columbia as were conferred by it upon them in respect of real estate in the Territories, by Act Feb. 23, 1905, c. 733, ante, § 3497.

§ 3499. (Act March 3, 1887, c. 340, § 2.) Acquisition of real estate in District of Columbia by corporations more than 20 per cent. of whose stock is owned by aliens, prohibited.

No corporation or association more than twenty per centum of the stock of which is or may be owned by any person or persons, corporation or corporations, association or associations, not citizens of the United States, shall hereafter acquire or hold or own any real estate hereafter acquired in [any of the Territories of the United States or of] the District of Columbia. (24 Stat. 477.)

The words of this section inclosed in brackets, "any of the Territories of the United States or of," were superseded by the amendment of this act by Act March 2, 1897, c. 363, ante, §§ 3490-3496.
See notes to preceding section of this act, ante, § 3498.
(1386)
§ 3500. (Act March 3, 1887, c. 340, § 4.) Forfeiture of property acquired, held, or owned in violation of provisions of act; proceedings for enforcement.

All property acquired, held, or owned in violation of the provisions of this act shall be forfeited to the United States, and it shall be the duty of the Attorney General to enforce every such forfeiture by bill in equity or other proper process. And in any suit or proceeding that may be commenced to enforce the provisions of this act, it shall be the duty of the court to determine the very right of the matter without regard to matters of form, joinder of parties, multifariousness, or other matters not affecting the substantial rights either of the United States or of the parties concerned in any such proceeding arising out of the matters in this act mentioned. (24 Stat. 477.)

See notes to section 1 of this act, ante, § 3498.
Provisions relating to proceedings for escheat of lands under Act March 2, 1887, c. 363, were made by sections 5 and 6 of that act, ante, §§ 3494, 3495.

§ 3501. (Act March 9, 1888, c. 30.) Ownership in District of Columbia of legations or of residences by representatives of foreign governments or attachés thereof.

That an act entitled “An Act to restrict the ownership of real estate in the Territories to American citizens, and so forth,” approved March third, eighteen hundred and eighty-seven, be so amended that the same shall not apply to or operate in the District of Columbia, so far as relates to the ownership of legations, or the ownership of residences by representatives of foreign governments, or attaches thereof. (25 Stat. 45.)

This was an act entitled “An act to amend Act March 3, 1887.”

§ 3502. (Act March 3, 1891, c. 564, § 1.) Inspection of coal mines; appointment and qualification of mine inspector.

In each organized and unorganized Territory of the United States wherein are located coal mines, the aggregate annual output of which shall be in excess of one thousand tons per annum, the President shall appoint a mine inspector, who shall hold office until his successor is appointed and qualified. Such inspector shall, before entering upon the discharge of his duties, give bond to the United States in the sum of two thousand dollars, conditioned for the faithful discharge of his duties. (26 Stat. 1104.)

This section and the eighteen sections next following were an act entitled “An act for the protection of the lives of miners in the Territories.”

§ 3503. (Act March 3, 1891, c. 564, § 2.) Mine inspectors; eligibility for appointment.

No person shall be eligible for appointment as mine inspector under section one of this act who, is not either a practical miner or mining engineer and who has not been a resident for at least six months in the Territory for which he shall be appointed; and no person who shall act as land agent, manager, or agent of any mine, or as mining engineer, or be interested in operating any mine
in such Territory shall be at the same time an inspector under the provisions of this act. (26 Stat. 1104.)

Section 1 of this act, mentioned in this section, is set forth ante, § 3502.

§ 3504. (Act March 3, 1891, c. 564, § 3.) Mine inspectors; duties; reports.

It shall be the duty of the mine inspector provided for in this act to make careful and thorough inspection of each coal mine operated in such Territory, and to report at least annually upon the condition of each coal mine in said Territory with reference to the appliances for the safety of the miners, the number of air or ventilating shafts, the number of shafts for ingress or egress, the character and condition of the machinery for ventilating such mines, and the quantity of air supplied to same. Such reports shall be made to the governor of the Territory in which such mines are located and a duplicate thereof forwarded to the Secretary of the Interior, and in the case of an unorganized Territory directly to the Secretary of the Interior. (26 Stat. 1104.)

§ 3505. (Act March 3, 1891, c. 564, § 4.) Notice to owners and managers of unsafe condition of mine reported by mine inspector.

In case the said mine inspector shall report that any coal mine is not properly constructed or not furnished with reasonable and proper machinery and appliances for the safety of the miners and other employees it shall be the duty of the governor of such organized Territory it shall be the duty of the Secretary of the Interior to give notice to the owners or managers of said coal mine that the said mine is unsafe and notifying them in what particular the same is unsafe, and requiring them to furnish or provide such additional machinery, slopes, entries, means of escape, ventilation, or other appliances necessary to the safety of the miners and other employees within a period to be in said notice named, and if the same be not furnished as required in such notice it shall be unlawful after the time fixed in such notice for the said owners or managers to operate said mine. (26 Stat. 1105.)

§ 3506. (Act March 3, 1891, c. 564, § 5.) Two shafts, slopes, etc., to be provided for each mine.

In all coal mines in the Territories of the United States the owners or managers shall provide at least two shafts, slopes, or other outlets, separated by natural strata if not less than one hundred and fifty feet in breadth, by which shafts, slopes, or outlets distinct means of ingress and egress shall always be available to the persons employed in said mine. And in case of the failure of any coal mine to be so provided it shall be the duty of the mine inspector to make report of such fact, and thereupon notice shall issue, as provided in section four of this act, and with the same force and effect. (26 Stat. 1105.)

Section 4 of this act, mentioned in this section, is set forth ante, § 3505.

(1388)
§ 3507. (Act March 3, 1891, c. 564, § 6, as amended, Act July 1, 1902, c. 1556.) Ventilation to be provided; prevention of accumulation of coal dust.

The owners or managers of every coal mine shall provide an adequate amount of ventilation of not less than eighty-three and one-third cubic feet of pure air per second, or five thousand cubic feet per minute for every fifty men at work in said mine, and in like proportion for a greater number, which air shall by proper appliances or machinery be forced through such mine to the face of each and every working place, so as to dilute and render harmless and expel therefrom the noxious or poisonous gases. Wherever it is practicable to do so the entries, rooms, and all openings being operated in coal mines shall be kept well dampened with water to cause the coal dust to settle, and that when water is not obtainable at reasonable cost for this purpose accumulations of dust shall be taken out of the mine, and shall not be deposited in way places in the mine where it would be again distributed in the atmosphere by the ventilating currents. (26 Stat. 1105. 32 Stat. 631.)

This section, as originally enacted, was as follows:

"The owners or managers of every coal mine at a depth of one hundred feet or more shall provide an adequate amount of ventilation of not less than fifty-five cubic feet of pure air per second, or thirty-three hundred cubic feet per minute, for every fifty men at work in said mine, and in like proportion for a greater number, which air shall by proper appliances or machinery be forced through such mine to the face of each and every working place, so as to dilute and render harmless and expel therefrom the noxious or poisonous gases; and all workings shall be kept clear of standing gas."

It was amended by changing this provision to read as in the first sentence of the section as set forth here, and by adding the further provision for precautions against accumulation of coal dust, by Act July 1, 1902, c. 1556, last cited above. A proviso, also added to the section by said amendment, requiring the employment of shot firers in the Indian Territory, was superseded by the admission of said territory, with the Territory of Oklahoma, to the Union as the State of Oklahoma.

§ 3508. (Act March 3, 1891, c. 564, § 7.) Punishment for failure to comply with requirements of act.

Any mine owner or manager who shall continue to operate a mine after failure to comply with the requirements of this act and after the expiration of the period named in the notice provided for in section four of this act, shall be deemed guilty of a misdemeanor, and shall be fined not to exceed five hundred dollars. (26 Stat. 1105.)

Section 4 of this act, mentioned in this section, is set forth ante, § 3505.

§ 3509. (Act March 3, 1891, c. 564, § 8.) Furnace shaft not to be deemed escape shaft.

In no case shall a furnace shaft be used or for the purposes of this act be deemed an escape shaft. (26 Stat. 1105.)

§ 3510. (Act March 3, 1891, c. 564, § 9.) Time for construction of escape shafts.

Escape shafts shall be constructed in compliance with the requirements of this act within six months from the date of the passage hereof, unless the time shall be extended by the mine inspector, (1889)
and in no case shall said time be extended to exceed one year from the passage of this act. (26 Stat. 1105.)

§ 3511. (Act March 3, 1891, c. 564, § 10.) Speaking tubes to be provided for shafts or slopes.
A metal speaking-tube from the top to the bottom of the shaft or slope shall be provided in all cases, so that conversation may be carried on through the same. (26 Stat. 1105.)

§ 3512. (Act March 3, 1891, c. 564, § 11.) Safety catches and covers overhead to be provided for hoisting apparatus; inspection of such apparatus.
An approved safety catch shall be provided and sufficient cover overhead on every carriage used in lowering or hoisting persons. And the mine inspectors shall examine and pass upon the adequacy and safety of all such hoisting apparatus. (26 Stat. 1105.)

§ 3513. (Act March 3, 1891, c. 564, § 12.) Children under twelve years not to be employed underground; punishment for violation of provisions.
No child under twelve years of age shall be employed in the underground workings of any mine. And no father or other person shall misrepresent the age of anybody so employed. Any person guilty of violating the provisions of this section shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not to exceed one hundred dollars. (26 Stat. 1105.)

§ 3514. (Act March 3, 1891, c. 564, § 13.) Men in charge of hoisting apparatus or engines.
Only experienced and competent and sober men shall be placed in charge of hoisting apparatus or engines. And the maximum number of persons who may ascend or descend upon any cage or hoisting apparatus shall be determined by the mine inspector. (26 Stat. 1106.)

§ 3515. (Act March 3, 1891, c. 564, § 14.) Mine inspectors; powers in and performance of duty of inspection; owners, etc., to furnish means necessary therefor.
It shall be lawful for any inspector to enter and inspect any coal mine in his district and the work and machinery belonging thereto at all reasonable times, but so as not to impede or obstruct the working of the mine; and to make inquiry in to the state of the mine, works, and machinery, and the ventilation and mode of lighting the same, and into all matters and things connected with or relating to the safety of the persons employed in or about the same, and especially to make inquiry whether the provisions of this act are complied with; and the owner or agent is hereby required to furnish means necessary for such entry, inspection, examination and inquiry, of which the said inspector shall make an entry in the record in his office, noting the time and material circumstances of the inspection. (26 Stat. 1106.)

(1390)
§ 3516. (Act March 3, 1891, c. 564, § 15.) Fatal accidents to be reported.

In all cases of fatal accident a full report thereof shall be made by the mine owner or manager to the mine inspector, said report to be in the writing and made within ten days after such death shall have occurred. (26 Stat. 1106.)

§ 3517. (Act March 3, 1891, c. 564, § 16.) Injunction restraining operation of mine on failure to comply with requirements.

As a cumulative remedy, in case of the failure of any owner or manager of any mine to comply with the requirements contained in the notice of the Governor of such Territory or the Secretary of the Interior, given in pursuance of this act, any court of competent jurisdiction, or the judge of such court in vacation, may, on application of the mine inspector in the name of the United States and supported by the recommendation of the governor of said Territory, or of the Secretary of the Interior, issue an injunction restraining the further operation of such mine until such requirements are complied with, and in order to obtain such injunction no bond shall be required. (26 Stat. 1106.)

§ 3518. (Act March 3, 1891, c. 564, § 17.) “Owner or manager” defined; officers, etc., of corporations, personally responsible for violations of act.

Wherever the term “owner or manager” is used in this act the same shall include lessees or other persons controlling the operation of any mine. And in case of the violation of the provisions of this act by any corporation the managing officers and superintendents, and other managing agents of such corporation, shall be personally liable and shall be punished as provided in act for owners and managers. (26 Stat. 1106.)

§ 3519. (Act March 3, 1891, c. 564, § 18.) Mine inspectors; salary and traveling expenses.

The mine inspectors provided for in this act shall each receive a salary of two thousand per annum, and their actual traveling expenses when engaged in their duties. (26 Stat. 1106.)

§ 3520. (Act March 3, 1891, c. 564, § 19.) Provisions of act to be superseded by territorial statute.

Whenever an organized Territory shall make or has made provision by law for the safe operation of mines within such Territory, and the governor of such Territory shall certify said fact with a copy of the said law to the Secretary of the Interior then and thereafter the provisions of this act shall no longer be enforced in such organized Territory, but in lieu thereof the statute of such Territory shall be operative in lieu of this act. (26 Stat. 1106.)

§ 3521. (Act June 16, 1880, c. 235.) Contracts for care and custody of convicts in other territory or state.

The legislative assemblies of the several Territories of the United States may make such provision for the care and custody of such persons as may be convicted of crime under the laws of such Terri- (1391)
cery as they shall deem proper, and for that purpose may authorize
and contract for the care and custody of such convicts in any other
Territory or State, and provide that such person or persons may
be sentenced to confinement accordingly in such other Territory
or State, and all existing legislative enactments of any of the Ter-
ritories for that purpose are hereby legalized: Provided, That the
expense of keeping such prisoners shall be borne by the respective
Territories, and no part thereof shall be borne by the United States.
(21 Stat. 277.)

This was a provision of the sundry civil appropriation act for the fiscal year
1881, cited above.

§ 3522. (R. S. § 1891.) Constitution and laws of United States
made applicable to all the territories.

The Constitution and all laws of the United States which are not
locally inapplicable shall have the same force and effect within all
the organized Territories, and in every Territory hereafter organi-
zed as elsewhere within the United States.

N. M., Act Sept. 9, 1850, c. 49, § 17, 9 Stat. 452. Utah, Act Sept. 9,
24, 1863, c. 66, § 2, 12 Stat. 665. Idaho, Act March 3, 1863, c. 117, § 13,

This section was not to apply to the Philippine Islands, by a provision of
Act July 1, 1902, c. 1899, § 1, post, § 3804.

The nature and effect of alcoholic drinks and narcotics on the human system
were required in the public schools of the Territories, by Act May 20, 1893, c.
862, post, §§ 9379-9381.

§ 3523. (Act April 29, 1902, c. 637.) Provisions of R. S. §§ 4197-
4200, requiring statements of goods carried by vessels clearing
to foreign ports, applicable to trade between United States and
noncontiguous territories, etc.

The provisions of sections four thousand one hundred and ninety-
seven to four thousand two hundred, inclusive, of the Revised Stat-
utes of the United States, requiring statements of quantity and
value of goods carried by vessels clearing from the United States
to foreign ports, shall be extended to and govern, under such reg-
ulations as the Secretary of the Treasury shall prescribe, in the
trade between the United States and Hawaii, Porto Rico, Alaska,
the Philippine Islands, Guam, and its other noncontiguous terri-
tery, and shall also govern in the trade conducted between said is-
lands and territory, and in shipments from said islands or territory
to other parts of the United States: Provided, That this law
shall not apply in the Philippine Islands during such time as the
collectors of customs of those islands are under the jurisdiction of
the War Department. (32 Stat. 172.)

This was an act entitled “An act to facilitate the procurement of statistics
of trade between the United States and its noncontiguous territory.
R. S. §§ 4197-4200, mentioned in this act, are set forth, post, §§ 7780-7792.
The laws relating to entry, clearance, and manifests of vessels arriving from
or going to foreign ports, were made applicable to voyages each way between
the Philippine Islands and the United States, and the possessions thereof,
by a provision of Act July 1, 1902, c. 1899, § 84, post, § 3805.

(1392)
§ 3524. (R. S. § 1892.) Penitentiaries.
Any penitentiary which has been, or may hereafter be, erected by the United States in an organized Territory shall, when the same is ready for the reception of convicts, be placed under the care and control of the marshal of the United States for the Territory or District in which such penitentiary is situated.

A further clause of this section excepting therefrom the penitentiaries in Montana, Idaho, Wyoming, and Colorado, was superseded by the admission of those Territories into the Union as stated, and is therefore omitted.

§ 3525. (R. S. § 1893.) Rules for their government.
The Attorney-General of the United States shall prescribe all needful rules and regulations for the government of such penitentiary, and the marshal having charge thereof shall cause them to be duly and faithfully executed and obeyed, and the reasonable compensation of the marshal and his deputies for their services under such regulations shall be fixed by the Attorney-General.


§ 3526. (R. S. § 1894.) Payment of marshal, etc., and of expenses of subsistence, etc., of offenders.
The compensation, as well as the expense incident to the subsistence and employment of offenders against the laws of the United States, who have been, or may hereafter be, sentenced to imprisonment in such penitentiary, shall be chargeable on, and payable out of, the fund for defraying the expenses of suits in which the United States are concerned, and of prosecutions for offenses committed against the United States; but nothing herein shall be construed to increase the maximum compensation now allowed by law to those officers.


§ 3527. (R. S. § 1895.) Imprisonment in penitentiaries.
Any person convicted by a court of competent jurisdiction in a Territory, for a violation of the laws thereof, and sentenced to imprisonment, may, at the cost of such Territory, on such terms and conditions as may be prescribed by such rules and regulations, be received, subsisted, and employed in such penitentiary during the term of his imprisonment, in the same manner as if he had been convicted of an offense against the laws of the United States.


CHAPTER TWO
Provisions Concerning Particular Organized Territories

(R. S. §§ 1896–1953. Superseded.)
This chapter of the Revised Statutes included sections 1896–1953 thereof, containing provisions relating to the territories then organized or to one or more of them. Said territories were Utah, New Mexico, Washington, Colorado,
THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

Dakota, Arizona, Idaho, Montana, and Wyoming, all of which were afterward admitted to the Union as States. See note at end of Title XXII, "The States." The provisions of this chapter were superseded thereby, and are therefore omitted.

CHAPTER THREE

Provisions Relating to the Unorganized Territory of Alaska


This chapter of the Revised Statutes included sections 1954–1976 thereof R. S. § 1954, extended the laws of the United States relating to customs, commerce, and navigation to the Territory. It was superseded by subsequent similar provisions, and particularly by the more comprehensive provisions extending the constitution and laws of the United States to the organized Territory of Alaska, of Act Aug. 24, 1912, c. 387, §§ 1, 3, post, §§ 3528, 3530. R. S. § 1955, provided for restriction or prohibition of the importation and use of fire-arms, ammunition, and distilled spirits into and within the Territory. It was repealed by Act March 3, 1899, c. 429, § 142, 30 Stat. 1274. R. S. §§ 1954, 1956, are therefore omitted.

The remaining sections of this chapter, R. S. § 1956–1976, restricted and regulated the killing of certain fur-bearing animals and of fur seals in the Territory or the waters thereof. They were to a great extent amended and re-enacted or otherwise superseded, or were repealed, by subsequent acts, particularly Act March 3, 1899, c. 429, §§ 173–178, 30 Stat. 1279, and Act April 21, 1910, c. 183, 36 Stat. 326. The provisions remaining in force of said sections and of the acts mentioned and other acts relating to the subject, are placed under Title LVI D, "Protection of Fur Seals and Other Fur-Bearing Animals."

CHAPTER THREE A

Alaska

The territory ceded to the United States by Russia by the Treaty of March 30, 1867, 15 Stat. 539, remained until 1884 unorganized, subject to provisions of Act July 27, 1868, c. 273, 15 Stat. 240, and subsequent acts, most of which were incorporated into R. S. §§ 1954–1976. It was constituted a civil and judicial district, and a civil government thereafter was established, by Act May 17, 1884, c. 53, 23 Stat. 24, which provided for a governor and other officers and for a district court for said district. A Criminal Code and Code of Criminal Procedure for the District were enacted by Act March 3, 1899, c. 429, 30 Stat. 1253. Further provisions for a civil government, including a Code of Civil Procedure and a Civil Code, were made by the Carter Act of June 6, 1900, c. 786, 31 Stat. 321. And it was constituted the Territory of Alaska, and further provisions for its government, including the creation of a legislative assembly, were made by Act Aug. 24, 1912, c. 387, 37 Stat. 612. See notes at beginning of this Title.

Sec. 3528. Alaska Territory organized.
3529. Capital at Juneau.
3530. Constitution and laws of United States extended.
3531. The legislature.
3532. Election of members of the legislature.

(1394)
THE TERRITORIES AND INSULAR POSSESSIONS

3538. Sec. 1. President of official acts, etc.; appointment of notaries public.
3539. Surveyor-general to be ex officio secretary; duties as secretary.
3540. Fees for services as secretary.
3541. Secretary's bond.
3542. District court; judges, salary, residence, etc.; divisions of court, to be also recording divisions; terms of court; interpreters, stenographers, and expenses of court; notice of terms.
3543. Jurisdiction of divisions of district court; change of place of trial of actions, civil or criminal.
3544. Clerks and commissioners; appointment, etc.; duties and powers of commissioners; records of commissioners.
3545. Clerks; duties; receipt and disposition of fees and other moneys; ex officio recorders and registers of wills; records; duties and clerical assistants.
3546. District attorneys; duties; salaries; assistants, etc.; filling vacancies in office.
3547. Marshals; deputy marshals, office deputies, and assistants, etc.; authority, powers, and duties of marshals and deputy marshals.
3548. Marshals; increase of amount of bond.
3549. Appointment of governor, surveyor-general, attorneys, judges, and marshals, and their compensation; clerks' fees and disposition thereof, and clerical assistance; traveling expenses of officers; surveyor-general to act in case of death, etc., or absence of governor.
3550. Accounts of fees and expenses of commissioners and deputy marshals; excess of net fees to be paid to clerk for court expenses.
3551. Clerks' bonds.
3552. Recording districts within recording divisions; designation of commissioner as ex officio recorder; clerk to be ex officio recorder of portion of division not within recording district; changes, etc., of recording districts.
3553. Record books, etc.; duties of recorders as to books, records, etc.
3554. Instruments, etc., to be recorded; time for recording notices of lo-
THE TERRITORIES AND INSULAR POSSESSIONS

3578. Notaries public; residence; term of office.

3580. Notaries public; duties.

3581. Protest of notaries of bills of exchange or promissory notes; effect as evidence.

3582. Notaries' records; deposit in office of clerk.

3583. Notaries' records; duties of clerk; copies, and effect thereof as evidence.

3584. Notaries' bonds.

3585. Notaries; qualification and commission.

3586. Notaries; liability for misconduct or neglect.

3587. Fees of officers for services required or authorized for which no compensation is provided.

3588. Use of public buildings for court rooms and offices; construction and repair of jails; construction of building for court where suitable court room not available; construction of court building or jail to be authorized by the Attorney-General.

3589. Historical library and museum; fees for admissions to the bar, for commissions to notaries public, and other fees, etc., to constitute fund thereof; matters to be embraced in collection; accounts of receipts and disbursements.

3590. Secretary's fees to be disbursed for benefit of historical library and museum.

3591. Historical library and museum a designated depository of government publications.

3592. Alaska fund; moneys derived from liquor, trade, etc., licenses, outside of incorporated towns, to constitute fund; apportionment to public schools, relief of indigent, etc., persons, and wagon roads, bridges, etc.; collection of fees; division of portion of fund for relief of indigent, etc., persons, among district judges, and distribution, etc., thereof by them.

(1390)

3593. Appropriation of moneys of Alaska fund for purposes mentioned in act.

3594. Board of road commissioners; detail or designation from officers of Army; powers and duties; powers to make roads, etc.; punishment for negligence; limitation of amount; reimbursement of expenses of members of board.

3595. Road overseers; appointment and filling vacancies; road districts; creation, and record of boundaries.

3596. Road overseers; term of office; qualification.

3597. Road overseers' duties; accounts; refusal to serve and penalty; delivery of successor of moneys, records, etc., and penalty.

3598. Road overseers' duties; warning to male residents to work on roads; notice of time, place, etc., for work; failure to perform work, and punishment for neglect or refusal; performance of road tax, and receipt for labor.

3599. Road overseers' duties; annual report.

3600. Road overseers' duties; neglect or refusal to perform or giving false receipt; penalty, and prosecution therefor.

3601. Road overseers' compensation: per diem, odiums, acknowledgments, filing papers, etc., to be free of cost; copies of act and blank forms to be furnished by clerk of district court.

3602. Copies of act and of other road and trail laws to be furnished by Attorney-General to clerks of district court for use of road overseers.

3603. Governor to be superintendent of public instruction.

3604. School districts in incorporated towns, to be established by common council; school board, their election, term of office, etc.; expenditure of school moneys; treasurer's bond; employment of teachers and maintenance of schools.

3605. School districts outside incorporated towns, to be established by clerk of district court; petition therefor, and order establishing district with notice of
Ch. 3A) THE TERRITORIES AND INSULAR POSSESSIONS

3606. School districts in incorporated towns; reports of clerks.

3607. Schools to be devoted to education of white, etc., children; provisions for education of Eskimos and Indians.

3608. Teachers and other employees of Bureau of Education in Alaska; permission to make assignments of pay, and reimbursement for expenses, authorised.

3609. Designation of employees of school service as special peace officers; authority to arrest natives for violations of Criminal Code; arrest without warrant, and proceedings thereon; fees, etc., not allowed; expenses allowed.

3610. Insane persons; commitment to asylum or sanitarium; proceedings; trial by jury; examination by physician or surgeon; witnesses; verdict; warrant of commitment; compensation of officers, etc.; payment of expenses.

3611. Insane persons; contract for care and custody in asylum, etc., to be made by Secretary of Interior; appropriations therefor to be made annually.

3612. Government wharf at Sitka; dockage and wharfage charges; rates, collection, and disposition.

3613. Reindeer to be turned over to missions or natives; sales of surplus males.

3614. Protection of eggs of certain wild birds; violation of provisions a misdemeanor; punishment.

3615. Protection of game; game defined; act not to affect laws relating to fur seals, etc., or prevent killing of game for food, etc.

3616. Open game seasons for certain animals and birds; caribou on Kenai Peninsula; Secretary of Agriculture authorized to make regulations prohibiting sale of game, modifying close seasons, or further restricting, etc., killing of game animals or birds, in any locality.

3617. Limitations of numbers of certain animals or birds to be killed by one person; restrictions on hunting with dogs, guns or boats.

3618. Sale or purchase, etc., of hides, skins, or heads of game animals or birds, during close season, prohibited.

3619. Hunting licenses for nonresidents, with shipping coupons; shipping licenses; affidavit for shipment; licenses for hunting and shipping big game; disposition of proceeds from licenses; estimates for enforcement of act; reports of licenses, etc.; employment of game wardens; regulation and licensing of guides.

3620. Shipments of wild birds, or of heads, hides or carcasses of certain animals unaccompanied by required license or coupon or copy of affidavit, unlawful; collections for scientific purposes, etc., under permit, etc., not to be prevented.

3621. Violation of provisions of act, or making false affidavit, a misdemeanor; forfeiture of game, guns, etc., and punishment; enforcement of act by officers; arrests without warrant, and seizures of game, etc.; duty of Secretary of Treasury to aid in carrying out provisions of act.

3622. Open season for certain game birds extended.

3623. Fishing by aliens in waters of Alaska, except with rod, spear, or gaff, unlawful; sale of fish to aliens, and employment of aliens as laborers, not restricted.

3624. Penalty for violations of act; liability of vessels, etc.

3625. Jurisdiction of prosecutions.

3626. Searches and seizures of vessels and arrests of persons violating act.

3627. Regulations to carry act into effect; enforcement of provisions; treaties, etc., not affected.

3628. License taxes on business of canning, curing, etc., fish or manufacturing fish products in Alaska.

(1397)
§ 3528. (Act Aug. 24, 1912, c. 387, § 1.) Alaska Territory organized.

The territory ceded to the United States by Russia by the treaty of March thirtieth, eighteen hundred and sixty-seven, and known as Alaska, shall be and constitute the Territory of Alaska under the laws of the United States, the government of which shall be organized and administered as provided by said laws. (37 Stat. 512.)

This section and the sixteen sections next following were sections 1–16, 20, of an act entitled "An Act to create a legislative assembly in the Territory of Alaska, to confer legislative power thereon, and for other purposes."

Section 17 of the act, relating to the time for holding elections of Delegates to the House of Representatives and the laws governing such elections, is set forth post, § 3539.

Section 18 of the act, creating a railroad commission to conduct an examination into the transportation question in the Territory, etc., and to make report to Congress on or before Dec. 1, 1912, or as soon thereafter as practicable, is omitted, as temporary merely, and executed.

Section 19 of the act, authorizing and directing the Committees on Territories of the Senate and of the House of Representatives jointly to codify, compile, publish, and annotate all the laws of the United States applicable to the Territory, is also omitted, as temporary merely, and executed.

The treaty with Russia of March 30, 1907, mentioned in this section, is set forth in 15 Stat. 534.

Previous provisions extending the laws of the United States over the Ter-

The capital of the Territory of Alaska shall be at the city of Juneau, Alaska, and the seat of government shall be maintained there. (37 Stat. 512.)


The Constitution of the United States, and all the laws thereof which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States; that all the laws of the United States heretofore passed establishing the executive and judicial departments in Alaska shall continue in full force and effect until amended or repealed by Act of Congress; that except as herein provided all laws now in force in Alaska shall continue in full force and effect until altered, amended, or repealed by Congress or by the legislature: Provided, That the authority herein granted to the legislature to alter, amend, modify, and repeal laws in force in Alaska shall not extend to the customs, internal-revenue, postal, or other general laws of the United States or to the game, fish, and fur-seal laws and laws relating to fur-bearing animals of the United States applicable to Alaska, or to the laws of the United States providing for taxes on business and trade, or to the Act entitled "An Act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the District of Alaska, and for other purposes," approved January twenty-seventh, nineteen hundred and five, and the several Acts amendatory thereof: Provided, further, That this provision shall not operate to prevent the legislature from imposing other and additional taxes or licenses. And the legislature shall pass no law depriving the judges and officers of the district court of Alaska of any authority, jurisdiction, or function exercised by like judges or officers of district courts of the United States. (37 Stat. 512.)

The previous provisions of laws establishing the executive and judicial departments in Alaska, mentioned and continued in force by this section, are set forth post, §§ 3561–3591.

The game laws applicable to Alaska, mentioned in this section, are set forth post, §§ 3614–3622.

The fish laws applicable to Alaska, mentioned in this section, are set forth post, §§ 3623–3643.

The fur-seal laws and laws relating to fur-bearing animals applicable to Alaska, are set forth post, under Title LVI D, "Protection of Fur-Seals and Other Fur-Bearing Animals."

Act Jan. 27, 1906, c. 277, and the several acts amendatory thereof, mentioned in this section, are set forth post, §§ 3592–3600.

Further limitations on the powers of the legislature are imposed by section 9 of this act, post, § 3536.

The coasting trade between Alaska and any other portion of the United

(1899)
§ 3530  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

States was to be regulated in accordance with the provisions of law applicable to such trade between any two great districts, by R. S. § 4358, post, § 8111.

Indian residents of Metlakatla, Alaska, are entitled to licenses as masters, pilots, and engineers, and as operators of steam-boats, motor-boats, etc., and also may be owners of motor-boats, etc., although not citizens, by Act March 4, 1907, c. 2929, §§ 1, 2, post, §§ 8188, 8189.

The establishment of a life-saving station at Nome, Alaska, was provided for by Act March 1, 1905, c. 1293, § 1, post, § 8006.

§ 3531. (Act Aug. 24, 1912, c. 387, § 4.) The legislature.

The legislative power and authority of said Territory shall be vested in a legislature, which shall consist of a senate and a house of representatives. The senate shall consist of eight members, two from each of the four judicial divisions into which Alaska is now divided by Act of Congress, each of whom shall have at the time of his election the qualifications of an elector in Alaska, and shall have been a resident and an inhabitant in the division from which he is elected for at least two years prior to the date of his election. The term of office of each member of the senate shall be four years: Provided, That immediately after they shall be assembled in consequence of the first election they shall, by lot or drawing, be divided in each division into two classes; the seats of the members of the first class shall be vacated at the end of two years and the seats of the members of the second class shall be vacated at the end of four years, so that one member of the senate shall, after the first election, be elected biennially at the regular election from each division. The house of representatives shall consist of sixteen members, four from each of the four judicial divisions into which Alaska is now divided by Act of Congress. The term of office of each representative shall be for two years and each representative shall possess the same qualifications as are prescribed for members of the senate and the persons receiving the highest number of legal votes in each judicial division cast in said election for senator or representative shall be deemed and declared elected to such office: Provided, That in the event of a tie vote the candidates thus affected shall settle the question by lot. In case of a vacancy in either branch of the legislature the governor shall order an election to fill such vacancy, giving due and proper notice thereof. That each member of the legislature shall be paid by the United States the sum of fifteen dollars per day for each day's attendance while the legislature is in session, and mileage, in addition, at the rate of fifteen cents per mile for each mile from his home to the capital and return by the nearest traveled route. (37 Stat. 513.)

The four judicial divisions of Alaska, mentioned in this section, were established by amendment of Act June 6, 1900, c. 786, § 4, by Act March 3, 1909, c. 209, § 2, post, § 3564.

§ 3532. (Act Aug. 24, 1912, c. 387, § 5.) Election of members of the legislature.

The first election for members of the Legislature of Alaska shall be held on the Tuesday next after the first Monday in November, nineteen hundred and twelve, and all subsequent elections for the election of such members shall be held on the Tuesday next after

(1400)
the first Monday in November biennially thereafter; that the qualifications of electors, the regulations governing the creation of voting precincts, the appointment and qualifications of election officers, the supervision of elections, the giving of notices thereof, the forms of ballots, the register of votes, the challenging of voters, and the returns and the canvass of the returns of the result of all such elections for members of the legislature shall be the same as those prescribed in the Act of Congress entitled "An Act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska," approved May seventh, nineteen hundred and six, and all the provisions of said Act which are applicable are extended to said elections for members of the legislature, and shall govern the same, and the canvassing board created by said Act shall canvass the returns of such elections and issue certificates of election to each member elected to the said legislature; and all the penal provisions contained in section fifteen of the said Act shall apply to elections for members of the legislature as fully as they now apply to elections for Delegate from Alaska to the House of Representatives. (37 Stat. 513.)

Act May 7, 1906, c. 2063, mentioned in this section, providing for the election of a delegate to the House of Representatives, is set forth post, §§ 3546-3558.

Said Act May 7, 1906, c. 2063, was continued in force for the election of such delegate, by section 17 of this act, post, § 3559.

§ 3533. (Act Aug. 24, 1912, c. 387, § 6.) Convening and sessions of legislature.

The legislature of Alaska shall convene at the capitol at the city of Juneau, Alaska, on the first Monday in March in the year nineteen hundred and thirteen, and on the first Monday in March every two years thereafter; but the said legislature shall not continue in session longer than sixty days in any two years unless again convened in extraordinary session by a proclamation of the governor, which shall set forth the object thereof and give at least thirty days' written notice to each member of said legislature, and in such case shall not continue in session longer than fifteen days.

The governor of Alaska is hereby authorized to convene the legislature in extraordinary session for a period not exceeding fifteen days when requested to do so by the President of the United States, or when any public danger or necessity may require it. (37 Stat. 514.)

§ 3534. (Act Aug. 24, 1912, c. 387, § 7.) Organization of the legislature.

When the legislature shall convene under the law, the senate and house of representatives shall each organize by the election of one of their number as presiding officer, who shall be designated in the case of the senate as "president of the senate" and in the case of the house of representatives as "speaker of the house of representatives," and by the election by each body of the subordinate officers provided for in section eighteen hundred and sixty-one of the United States Revised Statutes of eighteen hundred and
seventy-eight, and each of said subordinate officers shall receive
the compensation provided in that section: Provided, That no
person shall be employed for whom salary, wages, or compensation
is not provided in the appropriation made by Congress. (37 Stat.
514.)

R. 8. § 1801, mentioned in this section, providing for subordinate offices for
each house of the legislature of a Territory, was repealed, and a substitute
in lieu thereof was enacted by Act June 10, 1878, c. 329, § 1, ante, § 3401.

§ 3535. (Act Aug. 24, 1912, c. 387, § 8.) Enacting clause; subject
of act.
The enacting clause of all laws passed by the legislature shall be
"Be it enacted by the Legislature of the Territory of Alaska." No
law shall embrace more than one subject, which shall be expressed
in its title. (37 Stat. 514.)

§ 3536. (Act Aug. 24, 1912, c. 387, § 9.) Legislative power; limi-
tations.
The legislative power of the Territory shall extend to all rightful
subjects of legislation not inconsistent with the Constitution and
laws of the United States, but no law shall be passed interfering
with the primary disposal of the soil; no tax shall be imposed up-
on the property of the United States; nor shall the lands or other
property of nonresidents be taxed higher than the lands or other
property of residents; nor shall the legislature grant to any cor-
poration, association, or individual any special or exclusive privi-
lege, immunity, or franchise without the affirmative approval of
Congress; nor shall the legislature pass local or special laws in any
of the cases enumerated in the Act of July thirtieth, eighteen hun-
dred and eighty-six; nor shall it grant private charters or special
privileges, but it may, by general act, permit persons to associate
themselves together as bodies corporate for manufacturing, mining,
agricultural, and other industrial pursuits, and for the conduct of
business of insurance, savings banks, banks of discount and deposit
(but not of issue), loans, trust, and guaranty associations, for the
establishment and conduct of cemeteries, and for the construction
and operation of railroads, wagon roads, vessels, and irrigating
ditches, and the colonization and improvement of lands in connec-
tion therewith, or for colleges, seminaries, churches, libraries, or
any other benevolent, charitable, or scientific association, but the
authority embraced in this section shall only permit the organiza-
tion of corporations or associations whose chief business shall be
in the Territory of Alaska: no divorce shall be granted by the
legislature, nor shall any divorce be granted by the courts of the
Territory, unless the applicant therefor shall have resided in the
Territory for two years next preceding the application, which resi-
dence and all causes for divorce shall be determined by the court
upon evidence adduced in open court; nor shall any lottery or the
sale of lottery tickets be allowed; nor shall the legislature or any
municipality interfere with or attempt in anywise to limit the Acts
of Congress to prevent and punish gambling, and all gambling im-
(1402)
plements shall be seized by the United States marshal or any of his deputies, or any constable or police officer, and destroyed; nor shall spirituous or intoxicating liquors be manufactured or sold, except under such regulations and restrictions as Congress shall provide; nor shall any public money be appropriated by the Territory or any municipal corporation therein for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the Government; nor shall the Government of the Territory of Alaska or any political or municipal corporation or subdivision of the Territory make any subscription to the capital stock of any incorporated company, or in any manner lend its credit for the use thereof; nor shall the Territory, or any municipal corporation therein, have power or authority to create or assume any bonded indebtedness whatever; nor to borrow money in the name of the Territory or of any municipal division thereof; nor to pledge the faith of the people of the same for any loan whatever, either directly or indirectly; nor to create, nor to assume, any indebtedness, except for the actual running expenses thereof; and no such indebtedness for actual running expenses shall be created or assumed in excess of the actual income of the Territory or municipality for that year, including as a part of such income appropriations then made by Congress, and taxes levied and payable and applicable to the payment of such indebtedness and cash and other money credits on hand and applicable and not already pledged for prior indebtedness: Provided, That all authorized indebtedness shall be paid in the order of its creation; all taxes shall be uniform upon the same class of subjects and shall be levied and collected under general laws, and the assessments shall be according to the actual value thereof. No tax shall be levied for Territorial purposes in excess of one per centum upon the assessed valuation of property therein in any one year; nor shall any incorporated town or municipality levy any tax, for any purpose, in excess of two per centum of the assessed valuation of property within the town in any one year: Provided, That the Congress reserves the exclusive power for five years from the date of the approval of this Act to fix and impose any tax or taxes upon railways or railway property in Alaska, and no acts or laws passed by the Legislature of Alaska providing for a county form of government therein shall have any force or effect until it shall be submitted to and approved by the affirmative action of Congress; and all laws passed, or attempted to be passed, by such legislature in said Territory inconsistent with the provisions of this section shall be null and void: Provided further, That nothing herein contained shall be held to abridge the right of the legislature to modify the qualifications of electors by extending the elective franchise to women. (37 Stat. 514.)

Act July 30, 1886, c. 618, mentioned in this section, prohibiting the passage of local or special laws by Territorial legislatures in certain cases specified, is set forth ante, §§ 3493, 3497.
§ 3537. (Act Aug. 24, 1912, c. 387, § 10.) Rules, quorum, and majority.

The senate and house of representatives shall each choose its own officers, determine the rules of its own proceedings not inconsistent with this Act, and keep a journal of its proceedings; that the ayes and noes of the members of either house on any question shall, at the request of one-fifth of the members present, be entered upon the journal; that a majority of the members to which each house is entitled shall constitute a quorum of such house for the conduct of business, of which quorum a majority vote shall suffice; that a smaller number than a quorum may adjourn from day to day and compel the attendance of absent members, in such manner and under such penalties as each house may provide; that for the purpose of ascertaining whether there is a quorum present the presiding officer shall count and report the actual number of members present. (37 Stat. 515.)

§ 3538. (Act Aug. 24, 1912, c. 387, § 11.) Legislator shall not hold other office.

No member of the legislature shall hold or be appointed to any office which has been created, or the salary or emoluments of which have been increased, while he was a member, during the term for which he was elected and for one year after the expiration of such term; and no person holding a commission or appointment under the United States shall be a member of the legislature or shall hold any office under the government of said Territory. (37 Stat. 516.)


No member of the legislature shall be held to answer before any other tribunal for any words uttered in the exercise of his legislative functions. That the members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance upon the sessions of the respective houses, and in going to and returning from the same: Provided, That such privilege as to going and returning shall not cover a period of more than ten days each way, except in the second division, when it shall extend to twenty days each way, and the fourth division to fifteen days each way. (37 Stat. 516.)


A bill in order to become a law shall have three separate readings in each house, the final passage of which in each house shall be by a majority vote of all the members to which such house is entitled, taken by ayes and noes, and entered upon its journal. That every bill, when passed by the house in which it originated or in which amendments thereto shall have originated, shall immediately be enrolled and certified by the presiding officer and the clerk and sent to the other house for consideration. (37 Stat. 516.)

§ 3541. (Act Aug. 24, 1912, c. 387, § 14.) The veto power.

Except as herein provided, all bills passed by the legislature shall, in order to be valid, be signed by the governor. That every
bill which shall have passed the legislature shall be certified by the
presiding officers and clerks of both houses, and shall thereupon
be presented to the governor. If he approves it, he shall sign it
and it shall become a law at the expiration of ninety days there-
after, unless sooner given effect by a two-thirds vote of said leg-
islature. If the governor does not approve such bill, he may re-
turn it, with his objections, to the legislature. He may veto any
specific item or items in any bill which appropriates money for
specific purposes, but shall veto other bills, if at all, only as a whole.
That upon the receipt of a veto message from the governor each
house of the legislature shall enter the same at large upon its jour-
nal and proceed to reconsider such bill, or part of a bill, and again
vote upon it by ayes and noes, which shall be entered upon its jour-
nal. If, after such reconsideration, such bill or part of a bill
shall be approved by a two-thirds vote of all the members to which
each house is entitled, it shall thereby become a law. That if the
governor neither signs nor vetoes a bill within three days (Sun-
days excepted) after it is delivered to him, it shall become a law
without his signature, unless the legislature adjourns sine die prior
to the expiration of such three days. If any bill shall not be re-
turned by the governor within three days (Sundays excepted) after
it shall have been presented to him, the same shall be a law in like
manner as if he had signed it, unless the legislature, by its ad-
journment, prevents the return of the bill, in which case it shall not
be a law. (37 Stat. 516.)

§ 3542. (Act Aug. 24, 1912, c. 387, § 15.) Payment of legislative
expenses.

There shall be annually appropriated by Congress a sum suffi-
cient to pay the salaries of members and authorized employees of
the Legislature of Alaska, the printing of the laws, and other inci-
dental expenses thereof; the said sums shall be disbursed by the
governor of Alaska, under sole instructions from the Secretary of
the Treasury, and he shall account quarterly to the Secretary for
the manner in which the said funds shall have been expended; and
no expenditure, to be paid out of money appropriated by Congress,
shall be made by the governor or by the legislature for objects not
authorized by the Acts of Congress making the appropriations, nor
beyond the sums thus appropriated for such objects. (37 Stat.
516.)

§ 3543. (Act Aug. 24, 1912, c. 387, § 16.) Laws transmitted to
President and printed.

The governor of Alaska shall, within ninety days after the close
of each session of the Legislature of the Territory of Alaska, trans-
mit a correct copy of all the laws and resolutions passed by the
said legislature, certified to by the secretary of the Territory, with
the seal of the Territory attached: one copy to the President of
the United States, and one to the Secretary of State of the United
States; and the legislature shall make provisions for printing the
session laws and resolutions within ninety days after the close of
(1405)
§ 3544. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

each session and for their distribution to public officials and sale to the people of the Territory. (37 Stat. 517.)

§ 3544. (Act Aug. 24, 1912, c. 387, § 20.) Laws shall be submitted to Congress.

All laws passed by the Legislature of the Territory of Alaska shall be submitted to the Congress by the President of the United States, and, if disapproved by Congress, they shall be null and of no effect. (37 Stat. 518.)

§ 3545. (Act May 7, 1906, c. 2083, § 1.) Delegate from Alaska; qualifications; powers, privileges, and compensation.

The people of the Territory of Alaska shall be represented by a Delegate in the House of Representatives of the United States, chosen by the people thereof in the manner and at the time hereinbefore prescribed, and who shall be known as the Delegate from Alaska. Such Delegate shall at the time of his election have been for seven years a citizen of the United States, and shall be an inhabitant and qualified voter of the district of Alaska, and shall be not less than twenty-five years of age, and when duly chosen and qualified shall possess the same powers and privileges and be entitled to the same rate of compensation as the Delegates in the House of Representatives from the Territories of the United States: Provided, however, That such Delegate, in lieu of all other allowances, shall, in addition to his salary, receive the sum of one thousand five hundred dollars per annum, which shall cover all mileage and other expenses except stationery allowance and compensation for clerk hire. (34 Stat. 169.)

This section and the thirteen sections next following were sections 1, 3–15, of an act entitled "An act providing for the election of a Delegate to the House of Representatives from the Territory of Alaska."

Section 2 of the act related principally to the first election for Delegate, and prescribed the time for subsequent elections. It is omitted as temporary in part, and superseded by Act Aug. 24, 1912, c. 387, § 17, ante, § 3559.

The compensation of Delegates from the Territories, mentioned in this section, was fixed at $7,500 per annum, by Act Feb. 26, 1907, c. 1635, § 4, ante, § 36.

§ 3546. (Act May 7, 1906, c. 2083, § 3.) Voters; qualifications.

All male citizens of the United States twenty-one years of age and over who are actual and bona fide residents of Alaska, and who have been such residents continuously during the entire year immediately preceding the election, and who have been such residents continuously for thirty days next preceding the election in the precinct in which they vote, shall be qualified to vote for the election of a Delegate from Alaska. (34 Stat. 170.)

§ 3547. (Act May 7, 1906, c. 2083, § 4.) Election districts in towns; election officers; polling places; notices of election.

Each incorporated town in the district of Alaska shall constitute an election district, and where the population of such town exceeds one thousand inhabitants the common council may, in their discretion, at least thirty days before the election, divide the district into two or more voting precincts and define the boundaries of each pre-
chinct; and the said common council shall also appoint, at least thirty days before the election, three judges of election and two clerks for each voting precinct, all of whom shall be qualified voters of the precinct; and no more than two judges and one clerk shall belong to the same political party. The common council shall also, at least thirty days before the date of the election, provide a suitable polling place for each voting precinct and give due notice of the election by posting a written or printed notice in three public places in each precinct, specifying the time and place of the election, and in case there are one or more newspapers of general circulation published in the town, then a copy of said notice shall also be published in one of such newspapers at least once a week for two consecutive weeks next prior to the date of the election. (34 Stat. 170.)

§ 3548. (Act May 7, 1906, c. 2083, § 5.) Election districts outside of towns; duties of commissioners; voting precincts; notices of election; judges of election.

All of the territory in each recording district now existing or hereafter created situate outside of an incorporated town shall, for the purposes of this act, constitute one election district; that in each year in which a Delegate is to be elected the commissioner in each of said election districts shall, at least thirty days before the date of said first election, and at least sixty days before the date of each subsequent election, issue an order and notice, signed by him and entered in his records in a book to be kept by him for that purpose, in which said order and notice he shall—

First. Divide his election district into such number of voting precincts as may in his judgment be necessary or convenient, defining the boundaries of each precinct by natural objects and permanent monuments or landmarks, as far as practicable, and in such manner that the boundaries of each can be readily determined and become generally known from such description, specify a polling place in each of said precincts, and give to each voting precinct an appropriate name by which the same shall thereafter be designated: Provided, however, That no such voting precinct shall be established with less than thirty qualified voters resident therein; that the precincts established as aforesaid shall remain as permanent precincts for all subsequent elections, unless discontinued or changed by order of the commissioner of that district.

Second. Give notice of said election, specifying in said notice, among other things, the date of such election, the boundary of the voting precincts as established, the location of the polling place in the precinct, and the hours between which said polling places will be open.

Said order and notice shall be given publicity by said commissioner by posting copies of the same at least twenty days before the date of said first election, and at least thirty days before the date of each subsequent election. Said copies shall be posted as follows: One at the office of the commissioner in said district, and
three copies to be posted in three conspicuous public places in each of said voting precincts as established, one of which shall be the designated polling place in each precinct; and said commissioner shall also mail a certified copy of said order and notice to the governor of Alaska at his official residence.

That at least thirty days prior to the date of the holding of such election the commissioner shall select, notify, and appoint from among the qualified electors in each voting precinct three judges of election for said precinct, no more than two of whom shall be of the same political party. Said commissioner shall notify all of said judges of election of their appointment as such, so that each and all of them shall receive said notice at least ten days before the date of the election. (34 Stat. 171.)

§ 3549. (Act May 7, 1906, c. 2083, § 6.) Judges of election to constitute election board; duties; oath; authority to administer oaths to voters, etc.; performance of duties of clerks of election.

The judges of election of each voting precinct shall constitute the election board for said precinct and shall supervise and have charge of the election therein. They shall secure and provide a place for holding the election and a suitable ballot box. They shall pass upon the qualification of the voter and, if he be found qualified, receive and deposit his ballot in the ballot box, and shall canvass and make a return of the votes cast, as hereinafter provided.

That the members of said election board in each precinct, before entering upon the duties of their office, shall each severally take an oath, which shall be reduced to writing, before an officer qualified to administer oaths, to honestly, faithfully, and promptly perform the duties of their positions; and if no officer qualified to administer oaths be present or available, then any one of said duly appointed or selected judges of election may administer the necessary oath to said other two judges, and he shall afterwards in turn be sworn by one of them.

That each of said judges shall have authority to administer any oath to the voter necessary or proper under this act, and said judges shall have equal authority; and in case of any question or disagreement over any matter during the course of said election the decision of the majority of said judges shall govern.

That two of the three judges of election in each voting precinct, outside of incorporated towns, to be selected by a majority of said judges shall also perform the duties of clerks of election for that precinct; the two judges performing the duties of clerks shall be of different political parties; it shall be the duty of the clerks at each voting precinct to make a full written record of such election as held in that precinct, and each of them shall keep a correct duplicate register and enter therein the names of the voters and the fact that they have voted, or have offered to vote and were refused, and a brief statement of the reasons for said refusal. (34 Stat. 171.)

(1408)
§ 3550. (Act May 7, 1906, c. 2083, § 7.) Watchers at polls authorized.

Each of the candidates for the office of Delegate herein provided for, at any election held hereunder, shall be entitled to one watcher at each voting precinct, who shall be permitted to be present within the place of voting at such precinct, and in some place therein where he may at all times be in full view of every act done. Such watcher shall have the right to be so present at all times from the opening of the polls until the ballots are finally counted and the result certified by the election board. Each watcher shall be required to present to the election board proper credentials, signed by the candidate he represents, showing him to be the duly authorized watcher for such person. (34 Stat. 172.)

§ 3551. (Act May 7, 1906, c. 2083, § 8.) Filling vacancies in election board at time for election.

In case any of the judges of election selected as herein provided for any precinct shall fail to appear and qualify at the time and place designated for the election for which they shall be appointed, then, in that event, the qualified voters present may, by a majority viva voce vote, select a suitable person or persons to fill the vacancy or vacancies in said election board; and the person or persons so selected shall qualify and serve on said election board, with the same powers and in the same manner as if appointed as hereinbefore provided. (34 Stat. 172.)

§ 3552. (Act May 7, 1906, c. 2083, § 9.) Hours for voting; ballots, and form thereof; casting ballots; register of votes.

The election boards herein provided for shall keep the several polling places open for reception of votes from eight o'clock antemeridian until seven o'clock postmeridian on the day of election. The voting at said election shall be by printed or written ballot. *

At all elections after said first election the ballot shall be substantially in the following form:

"FOR DELEGATE FROM ALASKA.

"(Here insert the name of the person voted for.)"

Such ballot shall be folded by the voter so as not to disclose the vote, and by him handed to any one of the judges of election, who shall immediately, in the presence of the voter and of all the members of the election board, deposit the same, folded as aforesaid, in the ballot box, where the same shall remain untouched until the polls are closed. At the time the ballot is so deposited the clerks of election shall each of them enter in his duplicate register the name of the voter and the fact that he has voted. (34 Stat. 172.)

The portion of this section omitted here prescribed the form of the ballot at the first election for Delegate, and was temporary merely.

§ 3553. (Act May 7, 1906, c. 2083, § 10.) Challenges; oath required of voter; acceptance or rejection; punishment for swearing falsely.

Any person offering to vote may be challenged by any election officer or any other person entitled to vote at the same polling
§ 3554. (Act May 7, 1906, c. 2083, § 11.) Canvass of votes; certificates of result, and disposition thereof and of registers of voters, etc.; preservation of documents.

The election board at each polling place, as soon as the polls are closed, shall immediately publicly proceed to open the ballot box and count and canvass the votes cast, and they shall thereupon, under their hands and seals, make out in duplicate a certificate of the result of said election, specifying the number of votes, in words and figures, cast for each candidate, and they shall then immediately carefully and securely seal up in one envelope one of said duplicate certificates and one of the registers of voters, all the ballots cast, and all affidavits made, and mail such envelope, with said papers inclosed, at the nearest post-office by registered mail, if possible, duly addressed to the governor of Alaska at his place of residence, with the postage prepaid thereon.

The other duplicate certificate and register of voters, with the oaths of the judges of election, the judges of election shall at once seal up in an envelope addressed to the clerk of the district court for the division in which the precinct is situate, at his place of residence, with the postage thereof prepaid, and deposit the same in the nearest post-office, by registered mail, if possible. And the said clerk shall, as soon as he receives the said duplicate certificate, at once make out and duly mail to the governor of Alaska a certified copy of such certificate.

The clerks of the district courts for the various divisions of Alaska and the governor of Alaska shall each retain and carefully preserve all such documents received by them until the end of the term for which the Delegate chosen has been elected. (34 Stat. 173.)

§ 3555. (Act May 7, 1906, c. 2083, § 12.) Canvassing board for Territory; making canvass; declaration of result.

The governor, the surveyor-general, and the collector of customs
for Alaska shall constitute a canvassing board for the Territory of Alaska to canvass and compile in writing the vote specified in the certificates of election returned to the governor from all the several election precincts as aforesaid.

The said canvassing board shall commence the performance of its duties at the office of the governor within ten days after the third Tuesday of October in each year in which an election is held under and by virtue of this act, and shall continue with such work from day to day until the same is completed; and said canvass shall be publicly made.

In case it shall appear to said board that no election return as hereinbefore prescribed has been received by the governor from any precinct in which an election has been held, the said board may accept in place thereof the certified copy of the certificate of election for such precinct received from the clerk of the court, and may canvass and compile the same with the other election returns.

Said board, upon the completion of said canvass, shall declare the person who has received the greatest number of votes for Delegate to be the duly elected Delegate from Alaska for the term for which he has been so elected, and shall issue and deliver to him in writing under their hands and seals a certificate of his election. (34 Stat. 173.)

§ 3556. (Act May 7, 1906, c. 2083, § 13.) Fees; publication of election notices in newspapers; posting notices in voting precincts; rental of polling places; compensation of election officers.

Each newspaper in Alaska authorized to publish the notice of election provided for herein, and having published the same according to law, shall be entitled to receive therefor not more than ten dollars for the entire publications of any one election; that each commissioner in the Territory of Alaska is authorized to contract for the proper posting of all elections notices, as provided herein, in each voting precinct created in his said election district, and that not more than the sum of ten dollars at each election shall be allowed for the rental of a proper polling place in each voting precinct in Alaska; that each of the judges of election who shall qualify and serve as such in any precinct on said election day and each of the clerks of election in an incorporated town shall be entitled to a compensation of five dollars for all services performed. (34 Stat. 174.)

§ 3557. (Act May 7, 1906, c. 2083, § 14.) Payment of election expenses; certification with vouchers; audit.

The compensation for said newspaper publications, the proper posting of said notices, the rental of said polling places, the fees of the judges and clerks of election in each precinct, together with the cost of securing a ballot box and the cost of necessary postage and stationery, shall be certified with proper vouchers and receipts attached by various election officials to the judge of the district court in the said judicial division in which said voting precinct is
sitate, and the same shall be audited by said judge and shall be
paid by the clerk of the court of said division out of the same fund
and in the same manner as the incidental expenses of said district
court are paid. (34 Stat. 174.)

§ 3558. (Act May 7, 1906, c. 2083, § 15.) Hindering, etc., voting,
illegal voting, intimidation, bribery, etc., changing election re-
turns, etc., and neglect or violation of duty by officers of elec-
tion, punishable; jurisdiction of offenses.

Any person who, by any means, shall hinder, delay, prevent, or
obstruct any other person from qualifying himself to vote or from
lawfully voting at any election herein provided for, or who shall
knowingly personate and vote or attempt to vote in the name of
any other person, or who shall vote more than once at the same
election, or shall vote at a place where or at a time when he may
not lawfully be entitled to vote, or shall do any unlawful act to
secure an opportunity to vote, for himself or for any other person,
or who, by or through any force, threat, intimidation, bribery,
reward or offer thereof, unlawfully vote himself or procures another
to vote, or prevents or induces another to refrain from exercising
his right of suffrage, or induces by any means any officer of an
election to do any unlawful act or omit to do his duty in any man-
ner, or who, directly or indirectly, in any manner shall fraudulently
change or cause to be changed the returns or the true and lawful
result of any election hereunder or shall attempt to do the same,
or who shall delay, cause to be delayed, or connive at the delay of
election returns in any manner or attempt to do so, shall be guilty
of a crime, and upon the conviction thereof shall be punished by a
fine of not more than five hundred dollars nor less than one hun-
dred dollars, or imprisoned not more than three years, or both, in
the discretion of the court, and pay the costs of the prosecution;
and every officer of an election held hereunder who neglects to
perform or violates any duty imposed upon him as such officer, or
knowingly does any unauthorized act with the intent to affect the
election or the result thereof, or who shall permit, make, or con-
nive at any false count or certificate of election, or who shall con-
ceal, withhold, destroy, or willfully delay the returns of election,
or connive at the same being done, or who shall aid, counsel, or
procure any person to do or attempt to do any act made a crime
hereinbefore, or guilty of a crime, and upon conviction thereof shall
be punished by a fine of not less than two hundred dollars nor more
than one thousand dollars, or by imprisonment of not more than
five years, or both, in the discretion of the court, and shall pay all
costs of the prosecution; and jurisdiction of all such matters is
hereby conferred upon the district court of Alaska. (34 Stat. 174.)


After the year nineteen hundred and twelve the election for Dele-
gate from the Territory of Alaska, provided by “An Act providing
for the election of a Delegate to the House of Representatives from
the Territory of Alaska,” approved May seventh, nineteen hundred
(1412)
and six, shall be held on the Tuesday next after the first Monday in November in the year nineteen hundred and fourteen, and every second year thereafter on the said Tuesday next after the first Monday in November, and all of the provisions of the aforesaid Act shall continue to be in full force and effect and shall apply to the said election in every respect as is now provided for the election to be held in the month of August therein: Provided, That the time for holding an election in said Territory for Delegate in Alaska to the House of Representatives to fill a vacancy, whether such vacancy is caused by failure to elect at the time prescribed by law, or by the death, resignation, or incapacity of a person elected, may be prescribed by an act passed by the Legislature of the Territory of Alaska: Provided further, That when such election is held it shall be governed in every respect by the laws passed by Congress governing such election. (37 Stat. 517.)

Act May 7, 1906, c. 283, mentioned in this section, is set forth ante, §§ 3545-3558.

§ 3560. (Act June 6, 1900, c. 786, § 2.) Governor; authority in general; inquiry into seal killing, etc., operations, and reports to Congress thereon; reports to the President of official acts, etc.; appointment of notaries public.

There shall be appointed for the district a governor, who shall reside therein during his term of office and be charged with the interests of the United States Government within the district. To the end aforesaid he shall have authority to see that the laws enacted for the district are enforced and to require the faithful discharge of their duties by the officials appointed to administer the same. He may also grant reprievs for offenses committed against the laws of the district or of the United States until the decision of the President thereon shall be made known. He shall be ex officio commander in chief of the militia of the district, and shall have power to call out the same when necessary to the due execution of the laws and to preserve the peace, and to cause all able-bodied citizens of the United States in the district to enroll and serve as such when the public exigency demands; and he shall perform generally in and over said district such acts as pertain to the office of governor of a Territory, so far as the same may be made or become applicable thereto.

* * * The governor shall from time to time inquire into the operations of any person, company, association, or corporation authorized by the United States, by contract or otherwise, to kill seal or other fur-bearing animals in the district, and any and all violations by such person, company, association, or corporation of the agreement with the United States under which the operations are being conducted, and shall annually report to Congress the result of such inquiries.

He shall make an annual report, on the first day of October in each year, to the President of the United States, of his official acts and doings, and of the condition of the district, with reference to its resources, industries, population, and the administration of the
§ 3560  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

civil government thereof. And the President of the United States shall have power to review and to confirm or annul any reprievs granted or other acts done by him.

The governor may appoint and commission one or more notaries public for the district, and appointments of notaries public heretofore made by him are hereby legalized, and all acts performed by them by virtue of their notarial commissions shall be for all purposes as valid as though the governor had at the time full and complete legal authority to appoint and commission them. (31 Stat. 321.)

This section was section 2 of Title I of the Carter Act, cited above, entitled "An act making further provision for a civil government for Alaska, and for other purposes."

This act was divided into three Titles: Title I, containing provisions for the government of Alaska; Title II, constituting a Code of Civil Procedure; and Title III, entitled "Civil Code for the District of Alaska." Said Titles II and III were separately divided into numerous chapters and sections. Their provisions are omitted, as merely local in their operation.

Section 1 of Title I of the act, preceding this section, provided that the Territory should constitute a civil and judicial district, the government of which should be organized and administered as afterwards provided by the act, and prescribed the place for the seat of government. It was superseded by provisions of the same nature of Act Aug. 24, 1912, c. 387, §§ 1–3, ante, §§ 3528–3530.

The second paragraph of this section, omitted here, making it the duty of the Governor, subject to the direction and approval of the Secretary of the Interior, to advertise for and receive bids and contract for the care and custody of persons legally adjudged insane, was superseded by provisions imposing similar duties on the Secretary of the Interior, made by Act April 28, 1904, c. 1773, 33 Stat. 526, and Act Feb. 6, 1909, c. 80, § 7, post, § 3811.

The third paragraph of this section, requiring the Governor to inquire into the operations of any person, etc., or corporation authorized by the United States to kill seal or other fur-bearing animals in the District, and to report thereon, was superseded, so far as it relates to such killing of fur seals, by subsequent provisions for regulating the killing of fur seals and the taking of seal skins on the Pribilof Islands, the right to be exercised by officers, agents, etc., of the United States, made by Act April 21, 1910, c. 183, post, §§ 8856–8858. And all killing of fur seals in Alaska was suspended for a period of five years by Act Aug. 24, 1912, c. 373, § 11, post, § 8838.

Other provisions of said Title I of the act, relating to the government of the Territory in general, are set forth post, §§ 3561, 3564–3569, 3572–3589, 3591.

§ 3561. (Act June 6, 1900, c. 786, § 3.) Surveyor-general to be ex officio secretary; duties as secretary.

The surveyor-general of the district shall be ex officio secretary thereof, and as such shall be custodian of the district seal, which shall be provided by the Attorney-General. The surveyor-general, as ex officio secretary of the district, shall perform the official duties required by law to be performed by the secretary of a Territory of the United States, in so far as applicable to said district, and such other duties as may be required by law. (31 Stat. 322.)

See notes to section 2 of this act, ante, § 3560.

§ 3562. (Act March 3, 1905, c. 1497, § 1.) Fees for services as secretary.

In case the law requires or authorizes any service to be perform-
ed or any act to be done by the secretary of the district of Alaska and there is no provision of law requiring the payment of a fee for such service by the person for whose benefit the same is performed, the Secretary of the Interior may prescribe such fees for said service as he may deem proper. (33 Stat. 1265.)

This section and the section next following were sections 1, 8, of an act entitled "An act to further prescribe the duties of the secretary of the district of Alaska, and for other purposes."

Section 2 of the act, prescribing the disposition of the fees of the secretary, is set forth post, § 3590.

§ 3563. (Act March 3, 1905, c. 1497, § 3.) Secretary's bond.
The secretary of the district of Alaska, before entering upon the duties of said office, shall execute a bond with sufficient sureties, to be approved by the Secretary of the Interior, and in such penal sum as the Secretary of the Interior may prescribe, conditioned upon the safe-keeping, faithful disbursement, and proper accounting for all moneys from whatsoever source which may come into his hands as such secretary. (33 Stat. 1266.)

See notes to section 1 of this act, ante, § 3562.

§ 3564. (Act June 6, 1900, c. 786, § 4, as amended, Act March 3, 1909, c. 269, § 2.) District court; judges, salary, residence, etc.; divisions of court, to be also recording divisions; terms of court; interpreters, stenographers, and expenses of court; notice of terms.

There is hereby established a district court for the district of Alaska, with the jurisdiction of circuit and district courts of the United States and with general jurisdiction in civil, criminal, equity, and admiralty causes; and four district judges shall be appointed for the district, each at an annual salary of seven thousand five hundred dollars, who shall during their terms of office reside in the divisions of the district to which they may be respectively assigned by the President. The court shall consist of four divisions, which shall also be recording divisions. Division numbered one shall consist of all that part of the district of Alaska lying east of the one hundred and forty-first meridian of west longitude. Division numbered two shall consist of all that territory lying west of a line commencing on the Arctic coast at the one hundred and forty-eighth meridian; thence extending south along the easterly watershed of the Colville River to a point on the Rocky Mountain divide between the headwaters of Colville River on the north and west and the waters of the Chandlar on the south; thence southwesterly along the divide between the waters of the Colville River, the Kotzebue Sound, and Norton Sound on the north and west and the waters of the Yukon on the south to the one hundred and sixty-first meridian of west longitude; thence along said meridian to the Kuskokwim River; thence southwesterly along the center of the channel of said Kuskokwim River to Bering Sea; the said division to include all the islands lying north of the fifty-ninth parallel of north lati-
tude. Division numbered three shall consist of all that territory
lying south and west of the line starting on the coast of the Gulf
of Alaska at the one hundred and forty-first meridian of west lon-
titude; thence northerly along said meridian to a point due east
from Mount Kimball; thence west to summit of Mount Kimball;
thence southwesterly along the southerly watershed of the head-
waters of Tanana River; thence westerly along the divide between
the waters of the Gulf of Alaska on the south and the waters of the
Yukon on the north to the summit of Mount McKinley; thence
continuing westerly along the divide between the waters of the
Gulf of Alaska and Bristol Bay on the south and the waters of the
Yukon and Kuskokwim on the north to the one hundred and fifty-
ninth meridian of west longitude; thence northwesterly to the Kus-
kokwim River on the one hundred and sixty-first meridian of west
longitude; thence southwesterly along the center of said river to
Bering Sea; said division to include the Alaska peninsula, the Aleu-
tian Islands, and all islands along the coast of this district south
and west of the said district and all lying south of the fifty-ninth
parallel of north latitude. Division numbered four shall consist
of all that part of the district of Alaska lying east of the second
division and north of the third division. One general term of court
shall be held each year at Juneau, and such additional terms at
other places in the first division as the Attorney-General may direct.
One general term of court shall be held each year at Nome, and
such additional terms at other places in the second division as
the Attorney-General may direct. One general term of court shall
be held each year at Valdez, and such additional terms at other
places in the third division as the Attorney-General may direct.
One general term of court shall be held each year at Fairbanks, and
such additional terms at other places in the fourth division as the
Attorney-General may direct. Each of the judges is authorized and
directed to hold such special terms of court as may be necessary
for the public welfare or for the dispatch of the business of the court
at such times and places in their respective districts as any of them,
respectively, may deem expedient, or as the Attorney-General may
direct; and each shall have authority to employ interpreters and to
make allowances for the necessary expenses of his court, and to em-
ploy an official court stenographer at such compensation as shall
be fixed by the Attorney-General. At least thirty days' notice
shall be given by the judge, or the clerk, of the time and place of
holding the several terms of the court. (31 Stat. 322. 35 Stat. 839.)

See notes to section 2 of this act, ante, § 3550.
This section, as originally enacted, provided for three district judges and
for three divisions of the court. The numbers of judges and of divisions were
increased to four each, by amendment of the section by Act March 3, 1909,
c. 269, § 2, last cited above.

Act June 13, 1902, c. 1082, 32 Stat. 385, redivided Alaska into three re-
cording and judicial divisions, prescribing the boundaries of said divisions.
It was superceded by said amendment of this section by Act March 3, 1909,
c. 269, § 2.

(1416)
§ 3565. (Act June 6, 1900, c. 786, § 5.) Jurisdiction of divisions of district court; change of place of trial of actions, civil or criminal.

The jurisdiction of each division of the court shall extend over the district of Alaska, but the court in which the action is pending may, on motion, change the place of trial in any action, civil or criminal, from one place to another place in the same division or to a designated place in another division in either of the following cases:

First. When there is reason to believe that an impartial trial cannot be had therein;

Second. When the convenience of witnesses and the ends of justice would be promoted by the change;

Third. When from any cause the judge is disqualified from acting; but in such event, if the judge of another division will appear and try the action, no change of place of trial must be made;

Fourth. By the court, on its own motion, when, considering available means of travel, it appears that the defendant will be put to unnecessary expense and inconvenience if summoned to defend in the place or division in which the action has been commenced; and when it appears to the satisfaction of the court, or judge thereof, that an action has been commenced in a place or division remote from the residence of the defendant for the purpose of causing unnecessary expense or inconvenience, the place of trial shall be changed at the cost of the plaintiff, and such costs shall not be recovered from the defendant.

In any criminal prosecution the court shall change the place of trial where it appears to the satisfaction of the court that the defendant will not be prejudiced thereby and that the United States will be put to unnecessary expense in such criminal prosecution if the transfer is not made. (31 Stat. 323.)

See notes to section 2 of this act, ante, § 3560.

§ 3566. (Act June 6, 1900, c. 786, § 6.) Clerks and commissioners; appointment, etc.; duties and powers of commissioners; records of commissioners.

The respective judges of the court shall appoint, and at pleasure remove, clerks and commissioners in and for the district, who shall have the jurisdiction conferred by law in any part thereof, but who shall, during their terms of office, each reside at the place in the district designated in the respective orders of appointment.

The commissioners shall be ex officio justices of the peace, recorders, and probate judges, and shall perform all the duties and exercise all the powers, civil and criminal, imposed or conferred on the United States commissioners by the general laws of the United States and the special laws applicable to the district.

They shall also have power to grant writs of habeas corpus for the purpose of inquiring into the cause of restraint of liberty, which writs shall be made returnable before a district judge, and like proceedings shall be had thereon as if the same had been granted by
§ 3566. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

the judge under the general laws of the United States in such cases. The commissioners shall also have the powers of notaries public, and shall keep a memorandum of all deeds and other instruments of writing acknowledged before them and relating to the title to or transfer of property within the district, which memorandum shall be subject to public inspection. And all records of instruments of writing hitherto made by any United States commissioner in the district of Alaska are hereby declared to be public records of such district and shall have the same force and effect as if recorded in conformity with the provisions of this Act.

The commissioners shall also keep a record of all fines and forfeitures received by them, and shall pay over the same quarterly to the clerk of the division of the district court in which they were appointed. (31 Stat. 323.)

See notes to section 2 of this act, ante, § 3560.

The Attorney-General was authorized and directed to prescribe a schedule of fees for services of the commissioners acting as ex officio probate judges, by Act March 3, 1909, c. 269, § 9, 35 Stat. 842.

§ 3567. (Act June 6, 1900, c. 786, § 7, as amended, Act March 3, 1909, c. 269, § 3.) Clerks; duties; receipt and disposition of fees and other moneys; ex officio recorders and registers of wills; records; deputies and clerical assistants.

Four clerks shall be appointed for the court, one of whom shall be assigned to each division thereof, and during his term of office shall reside at such place in the division as the Attorney-General may direct. Each clerk shall, in his division of the district, perform the duties required or authorized by law to be performed by clerks of the United States courts in other districts, and such other duties as may be prescribed by the laws of the United States relating to the district of Alaska. He shall preserve copies of all laws applicable to the district and shall preserve all records and record all proceedings and official acts of his division of the court. He shall also collect and receive all moneys arising from the fees of his office, from licenses, fines, forfeitures, judgments, or on any other account authorized by law to be paid to or collected by him, and shall apply the same, except the money derived from licenses, to the incidental expenses of the proper division of the district court and the allowance thereof as directed in written orders, duly made and signed by the judge, and shall account for the same in detail, and for any balances on account thereof, under oath, quarterly, or more frequently if required, to the court, the Attorney-General, and the Secretary of the Treasury: Provided, That moneys accruing from violations of the customs laws, civil customs cases, or internal-revenue cases, moneys, not including costs, accruing from civil post-office suits, fines in criminal cases for violations of the postal laws, the net proceeds of sales of public property under section thirty-six hundred and eighteen, Revised Statutes as amended, and other moneys the disposition of which is otherwise specially provided for by law, shall not be available for the expenses of the court, but shall be paid over or deposited as provided by law for

(1418)
other districts. And after all payments ordered by the judge shall have been made, any balances remaining in the hands of the clerk shall be by him deposited to the credit of the United States and be covered into the Treasury of the United States at such times and under such rules and regulations as the Secretary of the Treasury may prescribe. The clerk shall be ex officio recorder of instruments as hereinafter provided and also register of wills for the division, and shall establish secure offices for the safe-keeping of his official records where terms of his division of the court are held. He may appoint necessary deputies and employ other necessary clerical assistance to aid him in the expeditious discharge of the duties of his office, with the approval and at compensation to be fixed by the court or judge, subject to the approval of the Attorney-General. Any person so appointed or employed shall be paid by the clerk on the order of the judge, as other court expenses are paid. (31 Stat. 324. 35 Stat. 840.)

See notes to section 2 of this act, ante, § 3559.

This section, as originally enacted, provided for the appointment of three clerks, one of whom to be assigned to each of the three divisions then existing. The number of clerks was increased to four, and provisions respecting the disposition of fees and other moneys, additional to those originally included in the section, and for the appointment of deputies, etc., were added by amendment, by Act March 3, 1909, c. 269, § 3, last cited above.

R. S. § 3818, mentioned in this section, providing for the disposition of proceeds of sales of old material, etc., is set forth post, § 8609.

§ 3568. (Act June 6, 1900, c. 786, § 8, as amended, Act March 3, 1909, c. 269, § 4.) District attorneys; duties; salaries; assistants, etc.; filling vacancies in office.

Four district attorneys shall be appointed for the district, one of whom shall be assigned to each division and shall reside at such place in the division as the Attorney-General shall direct. They shall each perform the duties required to be performed by United States district attorneys in other districts, and such other duties as may be required by law; and they shall each receive a salary of five thousand dollars per annum and shall not while in office accept retainers or engage in any other law business in the district than that pertaining to the duties of their office. The Attorney-General may, upon the recommendation of the district attorney, appoint and at pleasure remove one or more assistant district attorneys and one or more clerical assistants, who shall receive such compensation as the Attorney-General may fix, to be paid as other assistant United States district attorneys, and clerical assistants are paid. In the case of the death or disability of a district attorney the judge may appoint a suitable person to fill the office until his successor is appointed and qualified or until the disability is removed. (31 Stat. 324. 35 Stat. 841.)

See notes to section 2 of this act, ante, § 3560.

This section, as originally enacted, provided for the appointment of three district attorneys, one of them to be assigned to each of the three divisions then existing. The number was increased to four, and other changes in the provisions of the section were made by amendment, by Act March 3, 1909, c. 269, § 4, last cited above.

(1419)
§ 3569. (Act June 6, 1900, c. 786, § 9.) Marshals; deputy marshals, office deputies, and assistants, etc.; authority, powers, and duties of marshals and deputy marshals.

A marshal shall be appointed for each division of the district, and each marshal shall have authority and be required to appoint, subject to the approval of the Attorney-General, such deputy marshals as he may deem necessary for the efficient execution of the law and the orders of the court and of the commissioners appointed as herein provided.

That when in the opinion of the Attorney-General the public interest requires it, he may, on the recommendation of the marshal, which recommendation shall state the facts as distinguished from conclusions, showing necessity for the same, allow the marshals to employ necessary office deputies and clerical assistance, upon salaries to be fixed by the Attorney-General, from time to time, and paid as other officers of the court are paid. When any of such office deputies is engaged in the service or attempted service of any writ, process, subpoena, or other order of the court, or when necessarily absent from the place of his regular employment upon official business, he shall be allowed his actual traveling expenses only, and his necessary and actual expenses for lodging and subsistence, not to exceed four dollars per day, and the necessary actual expenses in transporting prisoners, including necessary guard hire; and he shall make and render accounts thereof as provided for.

Each marshal shall have the general authority and powers and be subject to the obligations of United States marshals in the States and Territories. He shall be the executive officer of the court, and charged with the execution of all processes thereof and with the transportation and custody of prisoners and insane persons, and he shall be ex officio keeper of the jails and penitentiaries of the division of the district to which he may be assigned, and shall be responsible on his official bond for the acts of all deputy marshals appointed by him. In case of the death of a marshal the district judge shall appoint a suitable person to fill the vacancy until his successor is appointed and qualified. The persons so appointed shall give such bonds as the court may require.

The marshal shall deliver persons duly adjudged insane in the district to the authorities of such asylum or sanitarium as the governor, with the approval of the Secretary of the Interior, may designate, and for the service of process in connection with and the guarding and transportation of the insane he shall be compensated as in the case of prisoners.

The deputy marshals shall be ex officio constables and executive officers of the commissioners herein provided for, and shall have the powers and discharge the duties of United States deputy marshals, and also those of constables, under the laws of the United States applicable to said district. (31 Stat. 324.)

See notes to section 2 of this act, ante, § 3580.
Provisions of section 2 of this act, referred to in this section, which au- (1420)
thorized the governor, subject to the direction and approval of the Secretary of the Interior, to contract with an asylum or sanitarium for the care and custody of persons adjudged insane, were superseded by provisions imposing similar duties on the Secretary of the Interior, made by Act April 23, 1894, c. 1773, 33 Stat. 526, and Act Feb. 6, 1906, c. 80, § 7, post, § 3609.

Four United States marshals shall be appointed for the district, one of whom shall be assigned to each division, and shall reside at such place in the division as the Attorney-General shall direct. (35 Stat. 841.)

Previous provisions for the appointment of marshals and their deputies, assistants, etc., prescribing the authority and powers and duties of marshals and deputy marshals, were made by Act June 6, 1800, c. 786, § 9, ante, § 3569.

Whenever the business of the courts, in any division of the district of Alaska shall make it necessary, in the opinion of the Attorney-General, for the marshal for said division to furnish greater security than the official bond now required by law, a bond in a sum not to exceed seventy-five thousand dollars shall be given when required by the Attorney-General, who shall fix the amount thereof. (30 Stat. 1336. 32 Stat. 2.)

This section was part of the Alaska Code of Criminal Procedure, enacted as Act March 3, 1899, c. 429, first cited above. As originally enacted, it provided for increasing the amount of the bond "whenever the business of the courts in the district of Alaska shall make it necessary." It was amended to provide for such increase whenever the business of the courts in any division of the District should make it necessary, as set forth here, by Act Jan. 22, 1903, c. 3, last cited above.

§ 3572. (Act June 6, 1900, c. 786, § 10.) Appointment of governor, surveyor-general, attorneys, judges, and marshals, and their compensation; clerks' fees and disposition thereof, and clerical assistance; traveling expenses of officers; surveyor-general to act in case of death, etc., or absence of governor.
The governor, surveyor-general, attorneys, judges, and the marshals provided for in this Act shall be appointed by the President, by and with the advice and consent of the Senate, and shall hold their respective offices for the term of four years and until their successors are appointed and qualified, unless sooner removed by the President for cause.
The officers so appointed shall severally be entitled to receive annual compensation as follows:
The governor, the sum of five thousand dollars; the surveyor-general and ex officio secretary of the district, as full compensation, four thousand dollars; the judges, each the sum of [five thousand dollars]; each marshal, the sum of four thousand dollars; the clerks, each the sum of three thousand five hundred dollars; the district attorneys, each [three thousand dollars], the salaries payable from the Treasury of the United States, as like officers are paid in other districts.
Each clerk shall collect all money arising from the fees of his of-
§ 3572  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23

office or on any other account authorized by law to be paid to or collected by him, and shall report the same and the disposition thereof in detail, under oath, quarterly, or more frequently if required, to the court, the Attorney-General, and the Secretary of the Treasury, and all public money received by him and his deputies for fees or on any other account shall be paid out by the clerk on the order of the court, duly made and signed by the judge, and any balance remaining in his hands after all payments ordered by the court shall have been made shall be by him covered into the Treasury of the United States at such times and under such rules and regulations as the Secretary of the Treasury may prescribe. The clerk may employ necessary clerical help with the approval and at compensation to be fixed by the court to aid him in the expeditious discharge of the business of his office. Any person so employed shall be paid by the clerk on the order of the court, as other court expenses are paid.

The governor, surveyor-general, marshals, judges, clerks of court, and district attorneys shall, in addition to their salaries, be paid their actual traveling and subsistence expenses when traveling in the discharge of their official duties. Accounts for such expenses shall be rendered and paid as are accounts of judges, marshals, clerks, and district attorneys for like expenses in other districts.

In case of death, removal, resignation, or absence of the governor from the district, the surveyor-general as ex officio secretary of the district shall have, and he is hereby authorized and required to execute and perform, all the powers and duties of the governor during such vacancy or absence, or until another governor shall be appointed to fill such vacancy. (31 Stat. 325.)

See notes to section 2 of this act, ante, § 3560.
The words of this section inclosed in brackets, "five thousand dollars," stating the amount of compensation of each of the judges, and the further words, also inclosed in brackets, "three thousand dollars," stating the compensation of each of the district attorneys, were superseded by subsequent provisions fixing the salaries of the judges at $7,500 each, and the salaries of the district attorneys at $5,000 each, by amendments of sections 4, 8, of this act by Act March 3, 1909, c. 260, §§ 2, 4, which amendments are incorporated in the sections so amended as set forth, ante, §§ 3564, 3568.

Subsequent appropriations provide an increased salary for the governor. The provision for the fiscal year 1914 was $7,000, by Act March 4, 1913, c. 142, § 1, 37 Stat. 783.

§ 3573. (Act June 6, 1900, c. 786, § 11, as amended, Act March 3, 1909, c. 269, § 5.) Accounts of fees and expenses of commissioners and deputy marshals; excess of net fees to be paid to clerk for court expenses.

An accurate detailed account of all fees earned and expenses incurred by commissioners and deputy marshals shall be prepared in duplicate quarterly, duly verified by the oath of the commissioner or deputy marshal rendering the account, and forwarded to the clerk for the proper division of the district court and approved by the judge thereof, if found to be in accordance with law. After approval by the judge the original of each such account shall be forwarded by the clerk to the Department of Justice for revision.

(1422)
and the duplicate filed in the court. All net fees earned in excess of the sum of three thousand dollars per calendar year or in excess of that rate for a less period, by any commissioner or deputy marshal, shall be annually paid to the clerk of the proper division of the court to be available for incidental expenses of the district court of the proper division, such payment of such incidental expenses to be accompanied by a verified detailed statement of said clerk. (31 Stat. 326. 35 Stat. 841.)

See notes to section 2 of this act, ante, § 3550.
This section, as originally enacted, required that an account of all fees received and disbursements made by commissioners and deputy marshals should be filed quarterly with the clerk and approved by the judge, and that all such net fees in excess of $3,000 per annum should be annually paid to the clerk and by him paid into the Treasury of the United States. It was amended to read as set forth here, by Act March 3, 1909, c. 289, § 5, last cited above.

§ 3574. (Act June 6, 1900, c. 786, § 12.) Clerks' bonds.
The clerks of the court shall each, before entering upon the duties of his office, execute a bond with sufficient sureties, to be approved by the Secretary of the Treasury, or the court or a judge thereof, in the penalty of twenty thousand dollars, for the faithful performance of his official duties, and file the same with the Attorney-General; and each commissioner shall, before entering upon the duties of his office, execute a bond, with sufficient sureties, to be approved by the court, or a judge thereof, in the penalty of one thousand dollars, for the faithful performance of his official duties, and file the same with the clerk, who shall send a certified copy thereof to the Attorney-General. (31 Stat. 326.)

See notes to section 2 of this act, ante, § 3550.

§ 3575. (Act June 6, 1900, c. 786, § 13.) Recording districts within recording divisions; designation of commissioner as ex officio recorder; clerk to be ex officio recorder of portion of division not within recording district; changes, etc., of recording districts.

At any regular or special term an order may be made by the court establishing one or more recording districts within the recording division under the supervision of such division of the court and defining the boundaries thereof by reference to natural objects and permanent landmarks, or monuments, in such manner that the boundaries thereof can be readily determined.

The order establishing a recording district shall designate a commissioner to be ex officio recorder thereof, and shall also designate the place where the commissioner shall keep his recording office within the recording district:

Provided, The clerk of the court shall be ex officio recorder of all that portion of the recording division under the supervision of his division of the court not embraced within the limits of a recording district established, bounded, and described therein as authorized by this Act, and when any part of the division for which a clerk has been recording shall be embraced in a recording district, such clerk shall transcribe that portion of his records appertaining
§ 3575 THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

to such district and deliver the same to the commissioner designat-
ed as recorder thereof.

Whenever it appears to the satisfaction of the court that the pub-
lic interests demand, or that the convenience of the people require,
the court may change or modify the boundaries or discontinue a
recording district or change the location of the recording office, or
remove the commissioner acting as ex officio recorder, and appoint
another commissioner to fill the office. (31 Stat. 327.)

See notes to section 2 of this act, ante, § 3560.
The first paragraph of this section, omitted here, provided for the division
of the district by the judges into three recording divisions. It was superseded
by the amendment of section 4 of this act by Act March 3, 1900, c. 268, § 2,
incorporated in said section 4 of this act as set forth ante, § 3564, whereby
the four divisions of the district court were also made recording divisions.

§ 3576. (Act June 6, 1900, c. 786, § 14.) Record books, etc.; du-

ties of recorders as to books, records, etc.
The clerk as ex officio recorder must procure such books for rec-
ords as the business of his office requires and such as may be re-
quired by the respective commissioners designated as recorders in
his division of the court, but orders for the same must first be ob-
tained from the court or the judge thereof. The respective officers
acting as ex officio recorders shall have the custody and must keep
all the books, records, maps, and papers deposited in their respec-
tive offices, and where a recorder is removed or from any cause be-
comes unable to act, or a recording district is discontinued, the rec-
ords and all books, papers, and property relating thereto shall be
delivered to the clerk or such officer or person as the court or judge
thereof may direct.
The record books procured by the clerk, as herein provided, shall
be paid for by him, on the order of the court, out of any moneys in
his hands, as other court expenses are paid. (31 Stat. 327.)

See notes to section 2 of this act, ante, § 3560.

§ 3577. (Act June 6, 1900, c. 786, § 15.) Instruments, etc., to be

recorded; time for recording notices of location of mining
claims; place of recording instruments.
The respective recorders shall, upon the payment of the fees
for the same prescribed by the Attorney-General, record separately,
in large and well-bound separate books, in fair hand:
First. Deeds, grants, transfers, contracts to sell or convey real
estate and mortgages of real estate, releases of mortgages, powers
of attorney, leases which have been acknowledged or proved, mort-
gages upon personal property;
Second. Certificates of marriage and marriage contracts and
births and deaths;
Third. Wills devising real estate admitted to probate;
Fourth. Official bonds;
Fifth. Transcripts of judgments which by law are made liens
upon real estate;
Sixth. All orders and judgments made by the district court or
(1424)
the commissioners in probate matters affecting real estate which
are required to be recorded;
Seventh. Notices and declaration of water rights;
Eighth. Assignments for the benefit of creditors;
Ninth. Affidavits of annual work done on mining claims;
Tenth. Notices of mining location and declaratory statements;
Eleventh. Such other writings as are required or permitted by
law to be recorded, including the liens of mechanics, laborers, and
others: Provided, Notices of location of mining claims shall be
filed for record within ninety days from the date of the discovery of
the claim described in the notice, and all instruments shall be re-
corded in the recording district in which the property or subject-
matter affected by the instrument is situated, and where the prop-
erty or subject-matter is not situated in any established recording
district the instrument affecting the same shall be recorded in the
office of the clerk of the division of the court having supervision
over the recording division in which such property or subject-
matter is situated. (31 Stat. 327.)

See notes to section 2 of this act, ante, § 3560.

§ 3578. (Act June 6, 1900, c. 786, § 16.) Accounts for fees col-
llected for instruments unrecorded; punishment for failure to
account; liability of officers and bondmen; unrecorded instru-
ments to be recorded by officer's successor.

Any clerk or commissioner authorized to record any instrument
who having collected fees for so doing fails to record such instru-
ment shall account to his successor in office, or to such person as
the court may direct, for all the fees received by him for recording
any instrument on file and unrecorded at the expiration of his offi-
cial term, or at the time he is required to transfer his records to
another officer under the direction of the court. And any clerk or
commissioner who fails, neglects, or refuses to so account for fees
received and not actually earned by the recording of instrument
shall be deemed guilty of a misdemeanor, and on conviction there-
of shall be fined not less than one hundred dollars nor more than
one thousand dollars, and imprisoned for not more than one year,
or until the fees received and unearned as aforesaid shall have
been properly accounted for and paid over by him, as hereinbefore
provided. And in addition such fees may be recovered from such
clerk or commissioner or the bondsmen of either, in a civil action
which shall be brought by the district attorney, in the name of the
United States, to recover the same; and the amount when recov-
ered shall be by the court transferred to the successor in office of
such recorder who shall thereupon proceed to record the unrecord-
ed instruments. (31 Stat. 328.)

See notes to section 2 of this act, ante, § 3560.

A proviso annexed to this section, authorizing miners in any organized
mining district to make rules and regulations governing recording notices of
§ 3578. THE TERRITORIES AND INSULAR POSSESSIONS

location of mining claims, etc., and permitting miners in such mining district
not within any recording district to elect their own mining recorder, is set
forth, § 5050.

A further provision annexed to this section, legalizing certain records there-
tofore made, is omitted, as temporary merely.

§ 3579. (Act June 6, 1900, c. 786, § 17.) Notaries public; resi-
dence; term of office.

Every person appointed as a notary public must at the time of
his appointment be a resident of the district and must continue to
reside therein during his term of office. Removal from the district
vacates his office and is equivalent to resignation.

The term of office of a notary public shall be four years from
and after the date of his commission, but he may be sooner re-
moved by the governor for misconduct in office. (31 Stat. 328.)

§ 3580. (Act June 6, 1900, c. 786, § 18.) Notaries public; duties.

It shall be the duty of a notary public—
First. When requested, to demand acceptance and payment of
foreign, domestic, and inland bills of exchange, or promissory notes,
and protest the same for nonacceptance and nonpayment, and to
exercise such other powers and duties as by the law of nations and
according to commercial usages or by the laws of any State, gov-
ernment, or country may be performed by notaries, and keep a
record of such acts.

Second. To take acknowledgment or proof of powers of attorney,
deeds, mortgages, grants, transfers, and other instruments of writ-
ing executed by any person and to give a certificate of such proof
or acknowledgment indorsed or attached to the instrument.

Third. To take depositions and affidavits and administer oaths
and affirmations in all matters incident to the duties of the office
or to be used before any court, judge, or officer.

Fourth. When requested and upon payment of his fees therefor
to make and give a certified copy of any record in his office.

Fifth. To provide and keep an official seal, upon which must be
engraved the name of the district and the words “Notary Public,”
with the surname of the notary and at least the initials of his Chris-
tian name. (31 Stat. 328.)

§ 3581. (Act June 6, 1900, c. 786, § 19.) Protests of notaries of bills
of exchange or promissory notes; effect as evidence.

The protest of a notary public under his hand and seal of a bill
of exchange or promissory note for nonacceptance or nonpayment,
stating the presentment for acceptance or payment and the nonac-
ceptance or nonpayment thereof, the service of notice on any and
all parties to such bill of exchange or promissory note and specify-
ning the mode of giving such notice and the reputed place of resi-
dence of the party to such bill of exchange or promissory note
and of the party to whom same was given and the post-office near-
est thereto is prima facie evidence of the facts contained therein.
(31 Stat. 329.)

(1426)
§ 3582. (Act June 6, 1900, c. 786, § 20.) Notaries' records; deposit in office of clerk.

It shall be the duty of every notary public, on his resignation or removal from office or at the expiration of his term and in case of his death of his legal representative, to forthwith deposit all the records kept by him in the office of the clerk of the division of the district court in which he resides, and on failure to do so the person so offending is liable in damages to any person injured thereby. (31 Stat. 329.)

§ 3583. (Act June 6, 1900, c. 786, § 21.) Notaries' records; duties of clerk; copies, and effect thereof as evidence.

It shall be the duty of each clerk aforesaid to receive and safely keep all records and papers of the notary in each case above named and to give attested copies of them under his seal, for which he may demand such fees as by law may be allowed to the notaries, and such copies shall have the same effect as if certified by the notary. (31 Stat. 329.)

§ 3584. (Act June 6, 1900, c. 786, § 22.) Notaries' bonds.

Each notary must execute an official bond in the sum of one thousand dollars, which bond must be approved by the clerk of the division of the district court located nearest his residence. (31 Stat. 329.)

§ 3585. (Act June 6, 1900, c. 786, § 23.) Notaries; qualification and commission.

Each notary public, upon approval of his official bond, so soon as he has taken his official oath, must transmit such bond and oath, signed by him with his own proper signature to the office of the secretary of the district, whereupon the governor must issue a commission. (31 Stat. 329.)

§ 3586. (Act June 6, 1900, c. 786, § 24.) Notaries; liability for misconduct or neglect.

For the official misconduct or neglect of a notary public, he and sureties on his official bond are liable to the parties injured thereby for all damages sustained. (31 Stat. 329.)

§ 3587. (Act June 6, 1900, c. 786, § 30.) Fees of officers for services required or authorized for which no compensation is provided.

In case the law requires or authorizes any services to be performed or any act to be done by any official or person within the District of Alaska, and provides no compensation therefor, the Attorney-General may prescribe and promulgate a schedule of such fees, mileage, or other compensation as shall be by him deemed proper for each division of the court, and such schedule shall have the force and effect of law; and the Attorney-General may from (1427)
§ 3588 THE TERRITORIES AND INSULAR POSSESSIONS

(Tit. 23)

time to time amend such schedule and promulgate the same as amended, and the schedule as amended and promulgated shall also have the force and effect of law. (31 Stat. 332.)

§ 3588. (Act June 6, 1900, c. 786, § 31.) Use of public buildings for court rooms and offices; construction and repair of jails; construction of building for court where suitable court room not available; construction of court building or jail to be authorized by the Attorney-General.

Any of the public buildings in the district not required for the customs service or military purposes may be used for court rooms and offices of the civil government; and the marshals of the district shall, each in his division, be the custodian of such buildings. Any division of the court may, where necessary, order the construction or repair of a jail building at the place or places where terms of the court are held, at a cost not to exceed three thousand dollars for each building, the same to be paid by the clerk as provided for the payment of other allowances for the necessary expenses of the court; and any part or portion of the unappropriated public domain of the United States, embracing not more than four thousand square feet, to be taken in compact form, as near as may be practicable, may be set aside by order of the court as a jail site, which order shall describe the location of the ground selected, where unsurveyed by metes and bounds and by reference to natural objects and permanent monuments, in such manner that its boundaries and its location may be readily determined, a certified copy of which order of the court shall be by the clerk thereof transmitted to the Commissioner of the General Land Office, who shall cause the same to be noted on the records of his office, and thereafter the ground described shall be reserved from sale or other disposition, unless for good cause the court shall vacate the order of reservation or Congress shall otherwise direct, and the sentence of imprisonment in any criminal case shall be carried out by confinement in the penitentiary or jails herein provided for, or as provided in section fifty-five hundred and forty-six of the Revised Statutes of the United States.

Where a suitable court room is not available or can not be obtained at reasonable rental at the place or any of the places where terms of the court are held, the court may enter a like order of reservation and direct the construction of a suitable building where the sessions of the court may be held, the cost of such building not to exceed in any case the sum of five thousand dollars, the same to be paid and proceedings to reserve the land to be as in the case of the reservation of ground and construction of jail, as herebefore provided: Provided, No court building or jail shall be constructed in any division of the district without authority from the Attorney-General, to whom the clerk shall furnish a verified account in detail of all expenditures made by him for buildings,
repairs, or other purposes, together with his authority for each payment made. (31 Stat. 332.)

R. S. § 5546, mentioned in this section, is set forth post, § 10547.

§ 3589. (Act June 6, 1900, c. 786, § 32.) Historical library and museum; fees for admissions to the bar, for commissions to notaries public, and other fees, etc., to constitute fund therefor; matters to be embraced in collection; accounts of receipts and disbursements.

For each certificate issued to a member of the bar, authorizing him to practice law in the district, a fee of ten dollars shall be paid to the clerk of the court, which shall be by him promptly remitted to the secretary of the district, and at the same time the clerk shall advise the governor of such remittance. For each commission issued to a notary public a fee of ten dollars shall be paid to the secretary of the district. The fees received by the secretary under this section and under chapter seventy-four of title two shall be by him retained and kept in a fund to be known as the district historical library fund. The fund thus collected shall be disbursed on the order of the governor for the purpose of establishing and maintaining the district historical library and museum. The same shall embrace copies of all laws relating to the district, and all papers and periodicals published within the district, and such other matter of historical interest as the governor may consider valuable and appropriate for such collection. The collection shall also embrace such curios relating to the aborigines and the settlers as may be by the governor deemed of historical importance. The collection thus made shall be described by the governor in the annual report of the governor to the Secretary of the Interior, and shall be by him kept in a secure place and turned over to his successor in office. The secretary of the district and the governor shall each annually account to the Secretary of the Interior for all receipts and disbursements in connection with such historical library and museum. (31 Stat. 333.)

Section 726 of this act under title 2, c. 73, thereof, 31 Stat. 446, required the secretary to collect five dollars for each certificate of appointment of a commissioner to take acknowledgment of deeds made under that chapter and disburse the same as provided in this section.

All fees received by the secretary as such were to be disbursed on the order of the governor for the benefit of the historical library and museum, as provided in this section, by Act March 3, 1905, c. 1497, § 2, post, § 3590.

§ 3590. (Act March 3, 1905, c. 1497, § 2.) Secretary's fees to be disbursed for benefit of historical library and museum.

All fees received by the secretary of the district of Alaska as such secretary, from every source whatsoever, shall be disbursed, on the order of the governor of the district of Alaska, for the benefit of the Alaska Historical Library and Museum, as provided in section thirty-two, chapter one, title one, of an Act approved June sixth, nineteen hundred, entitled "An Act making further provision for a civil government for Alaska, and for other purposes;" and

(1429)
all such receipts and disbursements shall be accounted for in the manner prescribed in said section. (33 Stat. 1266.)

See notes to section 1 of this act, ante, § 3562.

Act June 6, 1900, c. 786, § 32, mentioned in this section, is set forth ante, § 3589.

Provisions relating to fees for services as secretary, were made by section 1 of this act, ante, § 3562.

§ 3591. (Act June 6, 1900, c. 786, § 33.) Historical library and museum a designated depository of government publications.

The historical library and museum provided for in section thirty-two of this title is hereby made a designated depository of publications of the Government, and shall be supplied with one copy of each of said publications in the same manner as such publications are supplied to other depositories. (31 Stat. 333.)

Section 32 of this act, mentioned in this section, is set forth ante, § 3580.

§ 3592. (Act Jan. 27, 1905, c. 277, § 1, as amended, Act May 14, 1906, c. 2458, § 1, Act Feb. 6, 1909, c. 80, § 7, and Act March 3, 1913, c. 109.) Alaska fund; moneys derived from liquor, trade, etc., licenses, outside of incorporated towns, to constitute fund; apportionment to public schools, relief of indigent, etc., persons, and wagon roads, bridges, etc.; collection of fees; division of portion of fund for relief of indigent, etc., persons, among district judges, and distribution, etc., thereof by them.

All moneys derived from and collected for liquor licenses, occupation or trade licenses, outside of the incorporated towns in the Territory of Alaska, shall be deposited in the Treasury Department of the United States, there to remain as a separate and distinct fund, to be known as the "Alaska fund," and to be wholly devoted to the purposes hereinafter stated in the Territory of Alaska. Twenty-five per centum of said fund, or so much thereof as may be necessary, shall be devoted to the establishment and maintenance of public schools in said Territory; ten per centum of said fund shall be, and is hereby, appropriated and authorized to be expended for the relief of persons in Alaska who are indigent and incapacitated through nonage, old age, sickness, or accident; and all the residue of said fund shall be devoted to the construction and maintenance of wagon roads, bridges, and trails in said Territory: Provided, That the clerk of the court of each judicial division of said Territory is authorized, and he is hereby directed, whenever considered necessary, to call upon the United States marshal of said judicial division to aid in the collection of said license moneys by designating regular or special deputies of his office to act as temporary license inspectors, and it shall be the duty of said United States marshal to render such aid; and the said regular or special deputies while actually engaged in the performance of this duty shall receive the same fees and allowances and be paid in the same manner as when performing their regular duties.

That at the end of each fiscal quarter the Secretary of the Treasury of the United States shall divide the amount of said ten per centum of said fund so received during the quarter just ended into

(1430)
four equal parts, and transmit to each of the four United States district judges in Alaska one of said equal amounts.

That each of said judges is hereby authorized to expend so much of the money received by him under this Act as may, in his discretion, be required for the relief of those persons in his division who are incapacitated through nonage, old age, sickness, or accident, and who are indigent and unable to assist and protect themselves: Provided, That each judge shall quarterly submit to the Secretary of the Treasury an itemized statement, with proper vouchers, of all expenditures made by him under this Act, and he shall at the time transmit a copy of said statement to the governor of the Territory: Provided further, That any unexpended balance remaining in the hands of any judge at the end of any quarter shall be returned to the Secretary of the Treasury of the United States, and by him deposited in the said "Alaska fund," and the said sum shall be subsequently devoted, first, to meeting any actual requirements for the care and relief of such persons as are provided for in this Act in any other division in said Territory wherein the amount allotted for that purpose has proved insufficient; and, second, if there shall be any remainder thereof, said remainder shall be devoted to the construction and maintenance of wagon roads, bridges, and trails in said Territory. (33 Stat. 616. 34 Stat. 192. 35 Stat. 601. 37 Stat. 728.)

This section, originally, was part of the Alaska Roads and Trains Act, entitled "An act to provide for the construction and maintenance of roads, the establishment and maintenance of schools, and the care and support of insane persons in the district of Alaska, and for other purposes."

The section, as originally enacted, provided for the constitution of the fund substantially as in the first sentence set forth here, and directed that one-fourth of the fund, or so much thereof as necessary, should be devoted to public schools, five per centum to the care and maintenance of insane persons, or so much of said five per centum as might be needed, and all the residue to the construction and maintenance of wagon roads, bridges, and trails.

It was amended by adding thereto a proviso, substantially in the language of the proviso annexed to the first paragraph of the section as set forth here, by Act May 14, 1906, c. 2458, § 1, cited above.

So much of the act as provided that 5 per centum of the license moneys collected outside of incorporated towns should be devoted to the care and maintenance of insane persons was repealed, and such 5 per centum, or so much thereof as necessary, was directed to be applied to and used for the maintenance of public schools, under the supervision of the governor, by Act Feb. 8, 1909, c. 90, § 7, also cited above.

The section, as so amended, was further amended, mainly by the addition thereto of the provisions for expenditure of 10 per centum of the fund for the relief of indigent and incapacitated persons described, making it read as set forth here, by Act March 3, 1913, c. 109, last cited above. Said last mentioned act was entitled "An act to provide assistance to persons in Alaska who are indigent and incapacitated through nonage, old age, sickness, or accident, and for other purposes."


Alaska fund: That the moneys described as the "Alaska fund," in section one of "An Act to provide for the construction and maintenance of roads, the establishment and maintenance of schools,
and the care and support of insane persons in the District of Alaska, and for other purposes," approved January twenty-seventh, nineteen hundred and five, be, and the same are hereby, appropriated out of the Treasury of the United States for the uses and purposes in said Act mentioned. (33 Stat. 1170.)

This was a provision of the sundry civil appropriation act for the fiscal year 1906, cited above.

The provisions of Act Jan. 27, 1905, c. 277, § 1, mentioned in this act, relating to the Alaska Fund, are set forth, as amended by subsequent acts, ante, § 3592.

Appropriations are also made in the annual Army appropriation acts for construction and maintenance of military and post roads, bridges, and trails in Alaska, to be expended under the direction of the board of road commissioners described in Act Jan. 27, 1905, c. 277, § 2, as amended by Act May 14, 1906, c. 2458, § 2, post, § 3593. The provision for the fiscal year 1914 was by Act March 2, 1913, c. 93, 37 Stat. 716.

§ 3594. (Act Jan. 27, 1905, c. 277, § 2, as amended, Act May 14, 1906, c. 2458, § 2.) Board of road commissioners; detail or designation from officers of Army; powers and duties; contracts upon bids for certain work; supervision and examination of and report on work; payment of cost, etc., of work; limitation of amount; reimbursement of expenses of members of board.

There shall be a board of road commissioners in said district, to be composed of an engineer officer of the United States Army to be detailed and appointed by the Secretary of War, and two other officers of that part of the Army stationed in said district and to be designated by the Secretary of War. The said engineer officer shall, during the term of his said detail and appointment, abide in said district. The said board shall have the power, and it shall be their duty, upon their own motion or upon petition, to locate, lay out, construct, and maintain wagon roads and pack trails from any point on the navigable waters of said district to any town, mining or other industrial camp or settlement, or between any such town, camps, or settlements therein, if in their judgment such roads or trails are needed and will be of permanent value for the development of the district; but no such road or trail shall be constructed to any town, camp, or settlement which is wholly transitory or of no substantial value or importance for mining, trade, agricultural, or manufacturing purposes. The said board shall prepare maps, plans, and specifications of every road or trail they may locate and lay out, and whenever more than twenty thousand dollars, in the aggregate, shall have to be expended upon the actual construction of any road or section of road designed to be permanent, contract for the work shall be let by them to the lowest responsible bidder, upon sealed bids, after due notice, under rules and regulations to be prescribed by the Secretary of War. The board may reject any bid if they deem the same unreasonably high or if they find that there is a combination among bidders. In case no responsible and reasonable bid can be secured, then the work may be carried on with material and men procured and hired by the board.
The engineer officer of the board shall in all cases supervise the work of construction and see that the same is properly performed. As soon as any road or trail laid out by the board has been constructed and completed they shall examine the same and make a full and detailed report of the work done on the same to the Secretary of War, and in such report they shall state whether the road or trail has been completed conformably to the maps, plans, and specifications of the same. It shall be the duty of said board, as far as practicable, to keep in proper repair all roads and trails constructed under their supervision, and the same rules as to the manner in which the work of repair shall be done, whether by contract or otherwise, shall govern as in the case of the original construction of the road or trail. The cost and expenses of laying out, constructing, and repairing such roads and trails shall be paid by the Secretary of the Treasury, through the authorized disbursing officer of the board designated by the Secretary of War, out of the road and trail portion of said “Alaska fund” upon vouchers approved and certified by said board. The Secretary of the Treasury shall, at the end of each month, send by mail to each of the members of said board a statement of the amount available of said “Alaska fund” for the construction and repair of roads and trails, and no greater liability for construction or repair shall at any time be incurred by said board than the money available therefor at that time in said fund. The members of said board shall, in addition to their salaries, be reimbursed in the sums actually paid or incurred by them in traveling expenses in the performance of their duties, and shall be entitled to receive their actual expenses of living while serving as members of said board within the limits of the district and not stationed at a military post. (33 Stat. 616. 34 Stat. 192.)

See notes to section 1 of this act, ante, § 3592.

This section, as originally enacted, required contract for the work to be let “whenever more than five thousand dollars in the aggregate shall have to be expended on the construction of any road or trail.” That provision was amended, to require such letting of contract “Whenever more than twenty thousand dollars, in the aggregate, shall have to be expended upon the actual construction of any road or section of roads designed to be permanent;” by Act May 14, 1906, c. 2458, § 2, last cited above.

The provision at the end of the section which, as originally enacted, was “The members of said board shall, in addition to their salaries, be entitled to receive their actual traveling expenses paid or incurred by them in the performance of their duties as members of the board,” was also amended by said act so as to entitle the members of the board to receive their actual expenses of living while serving within the district and not stationed at a military post, as set forth here.

§ 3595. (Act April 27, 1904, c. 1629.) Road overseers; appointment and filling vacancies; road districts; creation, and record of boundaries.

It shall be the duty of the commissioner in each precinct in the district of Alaska, on the first Monday in the month of April in
§ 3595. THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23

each year, to appoint a road overseer for the precinct in which
he resides, and create a road district in the inhabited part of said
precinct, which said district shall not include incorporated cities
and towns.

To fill all vacancies in the office of road overseer in his precinct.

To cause a record to be made defining the boundaries of said
road district.  (33 Stat. 391.)

These provisions were part of an act entitled “An act to authorize the ap-
pointment of road overseers and to create road districts in the district of
Alaska, and for other purposes.”

Further provisions of the act relating to the office, duties, and compensation
of said road overseers are set forth post, §§ 3596-3602.

§ 3596. (Act April 27, 1904, c. 1629.) Road overseers; term of
office; qualification.

TERM OF OFFICE AND QUALIFICATION OF ROAD OVERSEEERS

All road overseers shall hold office for one year and until their
successors are appointed and qualified.

Every person appointed to the office of road overseer of any
road district shall reside in the road district to which he has been
appointed, and shall, within thirty days after he shall have been
notified of his appointment, take and subscribe to an oath of office
obligating himself to the faithful performance of the duties of his
office, and shall forthwith cause such oath to be filed in the office
of the commissioner of his precinct, and in case any such road over-
seer shall become nonresident of his road district, his office shall
at once become vacant.

Each road overseer shall, before entering upon the duties of his
office, execute a bond to the United States in a sum not less than
double the amount of money which will probably come into his
hands at any time during his term of office, with two or more sure-
ties, the amount and sufficiency of the bond to be approved by the
commissioner of the precinct, conditioned for the faithful discharge
of the duties of his office, which bond shall be by him forthwith filed
in the office of the commissioner and ex officio recorder.  The
approval of such bond shall be indorsed thereon by the commis-
sioner.  (33 Stat. 391.)

§ 3597. (Act April 27, 1904, c. 1629.) Road overseers' duties; ac-
counts; refusal to serve and penalty; delivery to successor
of moneys, records, etc., and penalty.

DUTIES OF ROAD OVERSEEER

The duties of road overseer shall be such as may be prescribed
by law.

Each road overseer shall keep an accurate account of all money
received by virtue of his office and the manner in which the same
has been disbursed, and to whom, and shall, on the last Saturday
of March in each year, exhibit such account, together with his
vouchers, to the commissioner for adjustment and settlement.

(1434)
Such account shall be in writing, verified by affidavit of the overseer that the same is in all respects a full and true account of all money received by him during the full term for which he should make settlement and the amounts expended and the manner in which they were expended.

If any person appointed to the office of road overseer, unless unable from disease or other infirmity to discharge the duties of such office, shall refuse or neglect to serve therein, he shall be liable to a fine of twenty-five dollars; but no person so appointed who shall have served for a term next preceding such appointment shall be liable to such fine for refusing to serve if he shall have given notice in writing of refusal to the commissioner within twenty days after having been notified of his appointment.

Every road overseer who shall, after the expiration of his term of office, neglect or refuse to deliver on demand to his successor in office, after such successor shall have been duly qualified according to law, all moneys, records, books, papers, or other property pertaining to such office shall be liable to a fine of not less than fifty nor more than five hundred dollars. (33 Stat. 392.)

§ 3598. (Act April 27, 1904, c. 1629.) Road overseers' duties; warning to male residents to work on roads; notice of time, place, etc., for work; failure to perform work, and punishment for neglect or refusal; performance of road tax, and receipt for labor.

Road overseers of the different precincts are authorized, and it is made their duty, to warn out all male persons between eighteen and fifty years of age who have resided thirty days in the district of Alaska, who are capable of performing labor on roads or trails, and who are not a precinct charge, to perform two days' work of eight hours each in locating, constructing, or repairing public roads or trails, under the direction of the road overseer within whose precinct they may respectively reside, or furnish a substitute to do the same, or pay the sum of four dollars per day for two days' labor, and said road overseer shall receive for the same and shall expend it in location, construction, or repairs on the public roads and trails within his precinct; and any moneys so received and not expended shall be paid over to his successor in office, who shall expend the same as above provided.

The overseer of roads and trails in each precinct shall give notice to persons residing in his precinct liable to or charged with a road or trail tax of the time and place and the kind of work expected to be performed on the road or trail, and may direct what implements such persons shall bring with which to perform such work.

Whenever it shall happen, in consequence of sickness or absence from home, or any other cause, that the two days' work aforesaid shall not be performed within the time specified in this Act, the overseer shall be authorized to require the performance of such work at any time prior to the first day of October then next ensuing; and in case any person shall neglect or refuse to do the
§ 3598. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 28)

two days' work, or furnish a substitute, or pay in money the price of two days' labor, as provided in this Act, he shall be deemed guilty of a misdemeanor and shall be fined in the sum of ten dollars for each day refusing so to work upon conviction before any justice of the peace of the precinct.

If any person shall appear at the proper time and place as directed by the overseer and neglect or refuse to do a reasonable day's work according to his ability, he shall be liable the same as if he had neglected or refused to appear, or furnish a substitute, or pay the sum of money as provided herein.

Under the direction of the overseer, and at his discretion, the above road tax may be performed by one day's work, together with an able-bodied man, a two-horse team with wagon, or a dog team consisting of not less than five dogs and a sleigh, or a reindeer team of not less than two reindeer and sleigh or cart.

It shall be the duty of each road overseer to receive to each person who performs labor on the public roads and trails of the precinct under the provisions of this Act for the amount of labor so performed, and no person shall be compelled to pay road tax except in one precinct in the district of Alaska during one calendar year. (33 Stat. 392.)

§ 3599. (Act April 27, 1904, c. 1629.) Road overseers' duties; annual report.

Each road overseer shall, on or before the first day of April in each year, report to the commissioner of the precinct the names of all persons subject to the two days' road tax for the preceding year, the names of those who have worked out said tax, the names of those who have paid the said tax in money, and the names of those delinquent, and also all moneys received by him from all sources, and how expended, and the account of said road overseer of the work performed by himself, which report shall be approved by said commissioner before any final settlement shall be made with such road overseer. (33 Stat. 393.)

§ 3600. (Act April 27, 1904, c. 1629.) Road overseers' duties; neglect or refusal to perform, or giving false receipt; penalty, and prosecution therefor.

Each and every road overseer who shall neglect or refuse to perform the several duties enjoined upon him by this Act, or who shall, under any pretense whatsoever, give or sign a receipt or certificate for labor performed or money paid, unless the labor shall have been performed or money paid prior to the signing or giving of such receipts or certificates, shall forfeit for every such offense not less than five nor more than fifty dollars, to be recovered by an action before any justice of the peace within the precinct where such overseer may reside, and it is hereby made the duty of every

(1436)
United States attorney or assistant to prosecute all offenses against the provisions of this Act not otherwise provided for. (33 Stat. 393.)

§ 3601. (Act April 27, 1904, c. 1629.) Road overseers’ compensation; per diem; oaths, acknowledgments, filing papers, etc., to be free of cost; copies of act and blank forms to be furnished by clerk of district court.

PER DIEM

Road overseers shall be allowed four dollars per day for all services required by this Act and actually performed in their respective precincts, to be retained out of money paid said road overseers from persons paying money or fines in lieu of two days’ labor, upon the certified statement of the overseers, approved by the commissioner of the precinct. Provided, That no overseer shall receive pay for more than ten days in any one year, and not until he has made the return as provided in the preceding section, in duplicate, one copy to be retained by the commissioner and one copy filed with the clerk of the district court in the division in which the said precinct is situated.

Any oath required to be taken by said overseer, acknowledgment of bond, or the filing or recording of any paper or plat authorized by this Act shall be free of cost to said overseer.

Upon application of road overseers it shall be the duty of the clerk of the district court to furnish copies of this Act and blank forms of notices warning persons to perform road work, receipts for road work, bond, and oath, and for overseer’s report to commissioner, the expense of which shall be paid out of the fund for paying the incidental expenses of the court. (33 Stat. 393.)

§ 3602. (Act April 27, 1904, c. 1629.) Copies of act and of other road and trail laws to be furnished by Attorney-General to clerks of district court for use of road overseers.

The Attorney-General of the United States is hereby directed to furnish clerks of the district court in the different judicial divisions of Alaska a sufficient number of copies of this Act and other road and trail laws that may now be upon the statutes relating to roads and trails in the district of Alaska for use of road overseers in each judicial division. (33 Stat. 393.)

§ 3603. (Act Jan. 27, 1905, c. 277, § 3.) Governor to be superintendent of public instruction.

The governor of the district of Alaska shall be ex officio superintendent of public instruction in said district, and as such shall have supervision and direction of the public schools in said district and shall prescribe rules and regulations for the examination and qualification of teachers, and shall make an annual report of the

(1437)
condition of the schools in the district to the Secretary of the Interior. (33 Stat. 617.)

See notes to section 1 of this act, ante, § 3592.

§ 3604. (Act Jan. 27, 1905, c. 277, § 4, as amended, Act March 3, 1905, c. 1491.) School districts in incorporated towns, to be established by common council; school board, their election, term of office, etc.; expenditure of school moneys; treasurer’s bond; employment of teachers and maintenance of schools.

The common council of the incorporated towns in said district shall have the power, and it shall be their duty, in their respective towns to establish school districts, to provide the same with suitable schoolhouses, and to maintain public schools therein and to provide the necessary funds for the schools; but such schools when established shall be under the supervision and control of a school board of three members, consisting of a director, a treasurer, and a clerk, to be elected annually by the vote of all adults who are citizens of the United States or who have declared their intention to become such and who are residents of the school district. The members of said board first elected shall hold their offices for the term of one, two, and three years, respectively, and until their successors are elected and qualified, and one member of such board shall be elected each year thereafter and shall hold his office for a period of three years and until his successor is elected and qualified; and they shall each, before entering upon the duties of their office, take an oath in writing to honestly and faithfully discharge the duties of their trust. In case a vacancy in the membership of said board occurs from death, resignation, removal, or other cause, such vacancy may be filled by a special election, upon ten days’ notice, called by the remaining members of the board upon the petition of five qualified voters. All money available for school purposes, except for the construction and equipment of schoolhouses and the acquisition of sites for the same, shall be expended under the direction of said board, and the treasurer of said board shall be the custodian of said money, and he shall, before entering upon the duties of his office, give his bond, with sufficient sureties, to the school district, in such sum as the common council may direct, and subject to its approval, but not less than twice the amount that may come into his hands as treasurer, conditioned that he will honestly and faithfully disburse and account for all money that may come into his hands as such treasurer. The said board shall have the power to hire and employ the necessary teachers, to provide for heating and lighting the schoolhouse, and in general to do and perform everything necessary for the due maintenance of a proper school. (33 Stat. 617. 33 Stat. 1262.)

See notes to section 1 of this act, ante, § 3592.

This section, as originally enacted, provided that the members of the school board first elected should hold their offices “for the term of two and three years respectively.” It was amended so as to provide that they should hold “for the term of one, two, and three years, respectively,” as set forth here, by Act March 3, 1905, c. 1491, last cited above.

(1438)
§ 3605. (Act Jan. 27, 1905, c. 277, § 5.) School districts outside incorporated towns, to be established by clerk of district court; petition therefor, and order establishing district with notice of election; school board, their election and qualification; treasurer's bond; powers of board; term of officer; certificate of election, oath, etc., to be filed; reports of board; apportionment of portion of Alaska fund for construction and equipment of schoolhouses and for payment of teachers, expenses, etc.

The clerk of the district court shall have the power, and it shall be his duty, in the division to which he is appointed and in which he resides, upon petition as hereinafter specified, to establish by order in writing a school district at any camp, village, or settlement outside of the limits of any incorporated town, but such school district shall not embrace more than forty square miles of territory nor contain less than twenty resident white children between the ages of six and twenty years. The said petition shall specify as near as may be the location and boundary of the proposed school district, the number of people, the number of families, and the number of children between the ages of six and twenty years, resident therein, and such other material facts as tend to show the necessity for the establishment of the school district. Said petition shall be signed by not less than twelve persons of adult age who are citizens of the United States or have declared their intention to become such and who reside within the boundaries of the proposed school district. If the clerk of the court is satisfied that it is necessary and proper to grant such petition, he shall make an order in writing establishing the school district prayed for, describing the same and defining its boundaries, and he shall also in said order appoint three of the petitioners to supervise and give notice of the first election, and shall specify the time and place of the same. The original order shall remain on file in the records of the court, and a copy of the same shall be posted at three public places in the school district at least ten days before the election, and such posting shall be deemed a sufficient notice of such election. All persons qualified to sign said petition shall be qualified to vote at said election. The qualified voters of said school district shall at said election choose by a plurality vote a school board of three members, consisting of a clerk, a treasurer, and a director, who shall, before entering upon the duties of their trust, each take an oath in writing to honorably and faithfully discharge the duties of their office. In case a vacancy in the membership of said board occurs from death, resignation, removal, or other cause, such vacancy may be filled by a special election, upon ten days' notice, called by the remaining members of the board upon the petition of five qualified voters. The treasurer shall be the custodian of the moneys of the school district, and he shall, before entering upon the duties of his office, give his bond to the school district, with sufficient sureties, to be approved by the clerk of the court, and in such sum as he may direct, but not less than twice the amount of money that may come
§ 3806 THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

into his hands as treasurer, conditioned that he, the treasurer, will honestly and faithfully disburse and account for all the money that may come into his hands by virtue of his office. Said board shall have the power to build or rent the necessary schoolhouse or schoolroom, to equip the same with the necessary furniture and fixtures, to provide fuel and light, to hire and employ teachers, and in general to do and perform everything that may be necessary for the maintenance of a public school. The members of said board shall hold office for the term of one year and until their successors are elected and qualified. An annual election shall be held each year, after the first election, for the election of members of said board. As soon as the members of said school board have been elected and qualified, they shall send to the clerk of the court and file in his office a certificate of their election under the hand and seal of the judges or supervisors of election, their oaths of office, and the bond of the treasurer, and the clerk of the court shall file said papers and carefully keep them as a part of the files and records of his office, and he shall at once send to the governor of the district of Alaska a certified copy of said papers, together with a certified copy of the order establishing the school district, and the governor shall duly file and preserve the same. The said board, as soon as they have complied with the requirements aforesaid, shall immediately report in writing to the governor the number of children in their school district between the ages of six and twenty years that intend to attend a public school, and the wages per month for which a teacher can be obtained; and after a school has been opened and maintained they shall, at the end of each school term, report to the governor in writing the length of the term, the wages paid the teacher, the total number of pupils in attendance, and the daily average of such attendance at such term. The governor shall assign and set apart to each school district established and organized under the provisions of this section a sum, not less than three hundred dollars nor more than one thousand dollars, in proportion to the number of pupils in the district, for the construction and equipment of a schoolhouse, which sum shall be paid by the Secretary of the Treasury to the treasurer of the school district upon the order and voucher of the governor out of that portion of the said Alaska fund set apart for the establishment and maintenance of public schools. The residue of said portion of said fund, or so much thereof as may be necessary, shall by the governor be apportioned among the several school districts established under the provisions of this section in amounts sufficient for each district to pay the wages of a teacher, together with the expense of fuel and light, for five months' school in each year. And the amounts so apportioned to each school district shall be paid to the treasurer of the district by the Secretary of the Treasury upon the order and voucher of the governor out of the said portion of said fund. (33 Stat. 617.)

See notes to section 1 of this act, ante, § 3592.

(1440)
§ 3606. (Act Jan. 27, 1905, c. 277, § 6.) School districts in incorporated towns; reports of clerks.

The clerks of school districts in the incorporated towns shall, at the end of each school term, report to the governor in writing the length of the term, the wages paid the teacher, the number of pupils in attendance, and the average daily attendance during the term. (33 Stat. 619.)

§ 3607. (Act Jan. 27, 1905, c. 277, § 7.) Schools to be devoted to education of white, etc., children; provisions for education of Eskimos and Indians.

The schools specified and provided for in this Act shall be devoted to the education of white children and children of mixed blood who lead a civilized life. The education of the Eskimos and Indians in the district of Alaska shall remain under the direction and control of the Secretary of the Interior, and schools for and among the Eskimos and Indians of Alaska shall be provided for by an annual appropriation, and the Eskimo and Indian children of Alaska shall have the same right to be admitted to any Indian boarding school as the Indian children in the States or Territories of the United States. (33 Stat. 619.)

Previous provisions that the Secretary of the Interior should make needful and proper provision for the children of school age in the District of Alaska, without reference to race, until such time as permanent provision should be made for the same, of Act May 17, 1884, c. 83, § 13, 23 Stat. 27, and Act June 6, 1900, c. 786, § 28, 31 Stat. 330, were superseded by this section.

Appropriations, as contemplated by this section, to enable the Secretary of the Interior to provide for the education and support of the Eskimos, Aleuts, Indians, and other natives of Alaska, are made annually by the sundry civil appropriation acts. Each such appropriation is accompanied by a proviso as follows: "Provided, That no person employed hereunder as special agent or inspector, or to perform any special or unusual duty in connection herewith, shall receive as compensation exceeding $200 per month, in addition to actual traveling expenses and per diem not exceeding $4 in lieu of subsistence, when absent on duty from his designated and actual post of duty."

The provisions for the fiscal year 1914 were by Act June 23, 1913, c. 3, § 1, 38 Stat. 48.

§ 3608. (Res. March 21, 1906, No. 10.) Teachers and other employés of Bureau of Education in Alaska; permission to make assignments of pay, and reimbursement for expenses, authorized.

That the Secretary of the Interior be, and he is hereby, authorized to permit teachers and other employees of the United States Bureau of Education employed in Alaska to make assignments of their pay, under such regulations as he may prescribe, during such time as they may be in the employ of the Bureau of Education in Alaska; and the Secretary of the Interior is further authorized, in his discretion, under such regulations as he may prescribe, to reimburse school-teachers in Alaska for expenses incurred by them in the discharge of their duties and paid from their personal funds. (34 Stat. 824.)

This was a joint resolution entitled "Joint Resolution authorizing assignment of pay of teachers and other employés of the Bureau of Education in Alaska."

Comp. Stat. '13—91 (1441)
§ 3609. (Act March 3, 1909, c. 266.) Designation of employees of school service as special peace officers; authority to arrest natives for violations of Criminal Code; arrest without warrant, and proceedings thereon; fees, etc., not allowed; expenses allowed.

The Attorney-General shall have power to appoint, in his discretion, any person employed in the Alaska school service who may be designated by the Secretary of the Interior as a special peace officer of the division of the district of Alaska in which such person resides; and such special peace officer shall have authority to arrest, upon warrant duly issued, any native of the district of Alaska charged with the violation of any of the provisions of the Criminal Code of Alaska (Act March third, eighteen hundred and ninety-nine, second supplement Revised Statutes, page one thousand three) or any amendment thereof, or any white man charged with the violation of any of said provisions to the detriment of any native of the district of Alaska; and such peace officer shall also have authority to make such arrests, without warrant, for a crime committed or attempted in his presence, or when the person arrested has committed a felony, although not in his presence, or when a felony has in fact been committed and he has reasonable cause for believing the person arrested to have committed it; and any person so arrested shall be taken, in accordance with such rules and regulations as may be prescribed by the Attorney-General, and without unnecessary delay, before a United States commissioner or other judicial officer for trial: Provided, however, that no person so appointed shall be entitled to any fees or emoluments of any character whatsoever for performing any of the services herein mentioned, but may be allowed, in the discretion of the Attorney-General, expenses actually and necessarily incurred in connection with such services. (35 Stat. 837.)

This was an act entitled, "An act authorising the Attorney-General to appoint as special peace officers such employees of the Alaska school service as may be named by the Secretary of the Interior."

§ 3610. (Act Jan. 27, 1905, c. 277, § 8.) Insane persons; commitment to asylum or sanitarium; proceedings; trial by jury; examination by physician or surgeon; witnesses; verdict; warrant of commitment; compensation of officers, etc.; payment of expenses.

Commissioners appointed by the judges of the district court in the district of Alaska, pursuant to existing laws, shall, as ex officio probate judges and in the exercise of their probate jurisdiction, have the power, and it shall be their duty, in their respective districts, to commit, by warrant under their hands and seals, all persons adjudged insane in their districts to the asylum or sanitarium provided for the care and keeping of the insane of the district of Alaska. No person shall be adjudged insane or committed as such, except upon and pursuant to the following proceedings, to wit: Whenever complaint in writing is made by any adult person to a commissioner that there is an insane person at large in
the commissioner's district, the commissioner shall at once cause such insane person to be taken into custody and to be brought before him, and he shall then immediately summon and impanel a jury of six male adults, residents of the district, to inquire, try, and determine whether the person so complained of is really insane. The members of said jury shall, before entering upon the discharge of their duty, each take an oath to diligently inquire, justly try, and a true verdict render, touching the mental condition of the person charged with being insane. Before entering upon such trial the commissioner shall appoint some suitable person to appear for and represent in the proceeding the person complained of as insane. And in case there is a physician or surgeon in the vicinity who can be procured, the commissioner shall cause such surgeon or physician to examine the person alleged to be insane, and after such examination to testify under oath before the jury in respect to the mental condition of said person. The commissioner shall preside at said hearing and trial. All witnesses that may be offered shall be heard and shall be permitted to testify under oath in said matter, and after having heard all the evidence the said jury shall retire to agree upon a verdict, and if the jury unanimously, by their verdict in writing, find that the said person so charged with being insane as aforesaid is really and truly insane and that he ought to be committed to the asylum or sanitarium aforesaid, and the commissioner approves such finding, he shall enter a judgment adjudging the said person to be insane and adjudging that he be at once conveyed to and thereafter properly and safely kept in the said asylum or sanitarium until duly discharged therefrom by law. The commissioner shall thereupon, under his hand and seal, issue his warrant, with a copy of said judgment attached, for the commitment of said insane person to the asylum or sanitarium aforesaid, which warrant shall be delivered to the marshal of the division in which said proceedings are had, and shall direct said marshal to safely keep and deliver said insane person to said asylum or sanitarium, and the said marshal, for the service of process in connection with and the guarding and the transportation of the insane, shall be compensated from the same source and in the same manner as in the case of prisoners convicted of crime. The commissioner, the jurymen, and the witnesses in said proceeding shall be entitled to the same compensation and mileage as in civil actions. And all the compensation, mileage, fees, and all other expenses and outlays incident to said proceedings shall be audited and allowed by the district judge of the division in which said proceedings are pending and had, and when so audited and allowed shall be paid by the clerk of the court in such division as the incidental expenses of the court are by him paid and from the same fund. (33 Stat. 619.)

A contract with a responsible asylum or sanitarium for the care and custody of persons legally adjudged insane, as contemplated by this section, was to be made by the governor, by Act June 6, 1900, c. 788, § 2, 31 Stat. 321; but this provision was superseded by subsequent acts, directing the Secretary of
§ 3610  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

the Interior to contract therefor, Act April 23, 1904, c. 1773, 33 Stat. 526, and Act Feb. 6, 1909, c. 80, § 7, post, § 3611.

The establishment of temporary detention hospitals for insane and other patients, until transported to the asylum for their permanent care or otherwise disposed of, was provided for by Act June 25, 1910, c. 424, 38 Stat. 852.

§ 3611. (Act Feb. 6, 1909, c. 80, § 7.) Insane persons; contract for care and custody in asylum, etc., to be made by Secretary of Interior; appropriations therefor to be made annually.

The Secretary of the Interior shall hereafter, as in his judgment may be deemed advisable, advertise for and receive bids for the care and custody of persons legally adjudged insane in the district of Alaska, and in behalf of the United States shall contract, for one or more years, as he may deem best, with a responsible asylum or sanitarium west of the main range of the Rocky Mountains submitting the lowest and best responsible bid for the care and custody of persons legally adjudged insane in said district of Alaska, the cost of advertising for bids, executing the contract, and caring for the insane to be paid from appropriations to be made for such service upon estimates to be submitted to Congress annually. (35 Stat. 601.)

This was part of section 7 of an act relating to affairs in the territories, cited above.

This provision superseded a previous provision to the same effect, except that the cost of advertising, etc., and of caring for the insane, was to be paid out of any money in the Treasury not otherwise appropriated, made by Act April 23, 1904, c. 1773, 33 Stat. 524.

A further provision of this section, repealing so much of Act Jan. 27, 1905, c. 277, § 1, 33 Stat. 616, as provided that 5 per cent. of the license moneys collected outside of incorporated towns in the district of Alaska should be devoted to the care and maintenance of insane persons, was superseded by a further amendment of said section to read as set forth ante, § 3582.

Appropriations, as contemplated in this section, for the care and custody of the insane of Alaska, are made in the sundry civil appropriation acts. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 3, § 1, 38 Stat. 48.

§ 3612. (Act June 11, 1896, c. 420, § 1.) Government wharf at Sitka; dockage and wharfage charges; rates, collection, and disposition.

Government wharf in Alaska: For reconstructing or repairing and putting in safe and proper condition the wharf at Sitka, Alaska, * *: Provided, That hereafter the Secretary of the Treasury be authorized to charge and fix the rates of dockage and wharfage to be paid by any private vessel or person allowed to use said wharf, the said receipts to be deposited with the Treasurer of the United States as a miscellaneous receipt derived from Government property; and the Secretary of the Treasury shall direct, by regulation or otherwise, by whom said wharfage and dockage receipts shall be collected. (29 Stat. 413.)

This was a provision of the sundry civil appropriation act for the fiscal year 1897, cited above.

§ 3613. (Act March 4, 1907, c. 2918, § 1.) Reindeer to be turned over to missions or natives; sales of surplus males.

All reindeer owned by the United States in Alaska shall as soon (1444)
as practicable be turned over to missions in or natives of Alaska, to be held and used by them under such conditions as the Secretary of the Interior shall prescribe. The Secretary of the Interior may authorize the sale of surplus male reindeer and make regulations for the same. The proceeds of such sale shall be turned into the Treasury of the United States. (34 Stat. 1338.)

This was a provision accompanying an appropriation for support of reindeer stations in Alaska, etc., in the sundry civil appropriation act for the fiscal year 1908, cited above.

Appropriations for the same purpose are made in the subsequent sundry civil appropriation acts. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 3, § 1, 38 Stat. 49.

§ 3614. (Act June 6, 1900, c. 786, § 29.) Protection of eggs of certain wild birds; violation of provisions a misdemeanor; punishment.

No person shall break, take from the nest, or have in possession the eggs of any crane, wild duck, brant, or goose; nor shall any person transport or ship out of said Territory the eggs or the contents of the eggs of any crane, wild duck, brant, or goose; nor shall any person, common carrier or other transportation company carry or receive for shipment such eggs or the contents of said eggs, and any person or company who shall have in possession or receive for shipment or transportation any eggs or the contents of any eggs of the crane, wild duck, brant, or goose shall be guilty of a misdemeanor and upon conviction be punished as provided in this section. Any person or company violating the provisions of this section shall be punished by a fine not exceeding five hundred dollars or imprisonment not exceeding six months. (31 Stat. 332.)

These provisions were included in section 29 of the Carter Act, making further provision for a civil government for Alaska, cited above, which section made several amendments of the Alaska Criminal Code, Act March 3, 1899, c. 429, 30 Stat. 1253. Said section 29, after making other amendments of said Act March 3, 1899, further provided “That chapter twelve of title one of said first above-mentioned Act be amended by adding after section one hundred and thirty-eight another section to be numbered one hundred and thirty-nine, and to read as follows:” setting out these provisions. But the probable intention was to add these provisions to said chapter of title 1 of the Criminal Code after section 183, at the end of that chapter.

§ 3615. (Act May 11, 1908, c. 162, § 1.) Protection of game; game defined; act not to affect laws relating to fur seals, etc., or prevent killing of game for food, etc.

From and after the passage of this Act the wanton destruction of wild game animals or wild birds, except eagles, ravens, and cormorants, the destruction of nests and eggs of such birds, or the killing of any wild birds, other than game birds, except eagles, for the purposes of selling the same or the skins or any part thereof, except as hereinafter provided, is hereby prohibited.

GAME DEFINED.—The term “game animals” shall include deer, moose, caribou, mountain sheep, mountain goats, brown bear, sea lions, and walrus. The term “game birds” shall include water fowl, commonly known as ducks, geese, brant, and swans; shore birds,
§ 3615 THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23

commonly known as plover, snipe, and curlew, and the several species of grouse and ptarmigan.

Exemptions.—Nothing in this Act shall affect any law now in force in Alaska relating to the fur seal, sea otter, or any fur-bearing animal or prevent the killing of any game animal or bird for food or clothing at any time by natives, or by miners or explorers, when in need of food; but the game animals or birds so killed during close season shall not be shipped or sold. (35 Stat. 102.)

This section was part of an act, cited above, to amend Act June 7, 1902, c. 1037, 32 Stat. 327, entitled "An act for the protection of game in Alaska, and for other purposes."

This act, amending said previous Alaska Game Law to read as set forth therein, entirely superseded said previous Act June 7, 1902, c. 1037.

Sections 2-7 of this act are set forth post, §§ 3616-3621.

§ 3616. (Act May 11, 1908, c. 162, § 2.) Open game seasons for certain animals and birds; caribou on Kenai Peninsula; Secretary of Agriculture authorized to make regulations prohibiting sale of game, modifying close seasons, or further restricting, etc., killing of game animals or birds, in any locality.

Season.—That it shall be unlawful for any person in Alaska to kill any wild game animals or birds, except during the season hereinafter provided: North of latitude sixty-two degrees, brown bear may be killed at any time; moose, caribou, sheep, walrus, and sea lions from August first to December tenth, both inclusive; south of latitude sixty-two degrees, moose, caribou, and mountain sheep from August twentieth to December thirty-first, both inclusive; brown bear from October first to July first, both inclusive; deer and mountain goats from April first to February first, both inclusive; grouse, ptarmigan, shore birds, and waterfowl from September first to March first, both inclusive: Provided, That no caribou shall be killed on the Kenai Peninsula before August twentieth, nineteen hundred and twelve: And provided further, that the Secretary of Agriculture is hereby authorized, whenever he shall deem it necessary for the preservation of game animals or birds, to make and publish rules and regulations prohibiting the sale of any game in any locality modifying the close seasons hereinbefore established, providing different close seasons for different parts of Alaska, placing further restrictions and limitations on the killing of such animals or birds in any given locality, or prohibiting killing entirely for a period not exceeding two years in such locality. (35 Stat. 102.)

See notes to preceding section of this act, ante, § 3615.

§ 3617. (Act May 11, 1908, c. 162, § 3.) Limitations of numbers of certain animals or birds to be killed by one person; restrictions on hunting with dogs, guns, or boats.

Number.—That it shall be unlawful for any person to kill any female or yearling moose or for any one person to kill in any one year more than the number specified of each of the following ani-
THE TERRITORIES AND INSULAR POSSESSIONS § 3619

mals: Two moose, one walrus or sea lion, three caribou, three mountain sheep, three brown bear, or to kill or have in his possession in any one day more than twenty-five grouse or ptarmigan or twenty-five shore birds or waterfowl.

GUNS AND BOATS.—That it shall be unlawful for any person at any time to hunt with dogs any of the game animals specified in this Act; to use a shotgun larger than number ten gauge, or any gun other than that which can be fired from the shoulder; or to use steam launches or any boats other than those propelled by oars or paddles in the pursuit of game animals or birds. (35 Stat. 103.)

See notes to section 1 of this act, ante, § 3615.

§ 3618. (Act May 11, 1908, c. 162, § 4.) Sale or purchase, etc., of hides, skins, or heads of game animals or birds, during close season, prohibited.

Sale.—That it shall be unlawful for any person or persons at any time to sell or offer for sale any hides, skins, or heads of any game animals or game birds in Alaska, or to sell, offer for sale, or purchase, or offer to purchase, any game animals or game birds, or parts thereof, during the time when the killing of such animals or birds is prohibited: Provided, That it shall be lawful for dealers having in possession game animals or game birds legally killed during the open season to dispose of the same within fifteen days after the close of said season. (35 Stat. 103.)

See notes to section 1 of this act, ante, § 3615.

§ 3619. (Act May 11, 1908, c. 162, § 5.) Hunting licenses for nonresidents, with shipping coupons; shipping licenses; affidavits for shipment; licenses for hunting and shipping big game; disposition of proceeds from licenses; estimates for enforcement of act; reports of licenses, etc.; employment of game wardens; regulation and licensing of guides.

Licenses.—That it shall be unlawful for any nonresident of Alaska to hunt any of the game animals protected by this Act, except deer and goats, without first obtaining a hunting license, or to hunt on the Kenai Peninsula without a registered guide, and such license shall not be transferable and shall be valid only during the calendar year in which issued. Each applicant shall pay a fee of one hundred dollars for such license, unless he be a citizen of the United States, in which case he shall pay a fee of fifty dollars. Each license shall be accompanied by coupons authorizing the shipment of two moose if killed north of latitude sixty-two degrees, four deer, three caribou, three mountain sheep, three goats, and three brown bear, or any part of said animals, but no more of any one kind.

A resident of Alaska desiring to export heads or trophies of any of the game animals mentioned in this Act shall first obtain a shipping license, for which he shall pay a fee of forty dollars, permitting the shipment of heads or trophies of one moose, if killed north of latitude sixty-two degrees, four deer, two caribou, two sheep, two (1447)
§ 3619  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

goats, and two brown bear, but no more of any one kind; or a shipping license, for which he shall pay a fee of ten dollars, permitting the shipment of a single head or trophy of caribou or sheep; or a shipping license, for which he shall pay a fee of five dollars, permitting the shipment of a single head or trophy of any goat, deer, or brown bear. Any person wishing to ship moose killed south of latitude sixty-two degrees must first obtain a special shipping license, for which he shall pay a fee of one hundred and fifty dollars, permitting the shipment of one moose, or any part thereof. Not more than one general license and two special moose licenses shall be issued to any one person in one year: Provided, That before any trophy shall be shipped from Alaska under the provisions of this Act the person desiring to make such shipment shall first make and file with the customs office at the port where such shipment is to be made an affidavit to the effect that he has not violated any of the provisions of this Act; that the trophy which he desires to ship has not been bought or purchased and has not been sold and is not being shipped for the purpose of being sold, and that he is the owner of the trophy which he desires to ship, and if the trophy is that of moose, whether the animal from which it was taken was killed north or south of latitude sixty-two degrees: Provided further, That any resident of Alaska prior to September first, nineteen hundred and eight, may without permit or license ship any head or trophy of any of the game animals herein mentioned upon filing an affidavit with the customs office at the port where such shipment is to be made that the animal from which said head or trophy was taken was killed prior to the passage of this Act. Any affidavit required by the provisions of this Act may be subscribed and sworn to before any customs officer or before any officer competent to administer an oath.

The governor of Alaska is hereby authorized to issue licenses for hunting and shipping big game. On issuing a license he shall require the applicant to state whether the heads or trophies to be obtained or shipped under said license will pass through the ports of entry at Seattle, Washington, Portland, Oregon, or San Francisco, California, and he shall forthwith notify the collector of customs at the proper port of entry as to the name of the holder of the license and the name and address of the consignee. All proceeds from licenses, except one dollar from each fee, which shall be retained by the clerk issuing the license to cover the cost of printing and issue, shall be paid into the Treasury of the United States as miscellaneous receipts; the amount necessary for the enforcement of this Act shall be estimated for annually by the Agricultural Department and appropriated for including the employment and salaries to be paid to game wardens herein authorized. And the governor shall annually make a detailed and itemized report to the Secretary of Agriculture, in which he shall state the number and kind of licenses issued, the money received, which report shall also include a full statement of all trophies exported and all animals and birds exported for any purpose.

And the governor of Alaska is further authorized to employ game

(1448)
wardens, to make regulations for the registration and employment of
guides, and fix the rates for licensing guides and rates of compensation
for guiding. Every person applying for a guide license shall, at the
time of making such application, make and file with the person issuing
such license an affidavit to the effect that he will obey all the condi-
tions of this Act and of the regulations thereunder, that he will not
violate any of the game laws or regulations of Alaska, and that he
will report all violations of such laws and regulations that come to
his knowledge. Any American citizen or native of Alaska, of good
character, upon compliance with the requirements of this Act, shall
be entitled to a guide license. Any guide who shall fail or refuse to
report any violation of this Act, or who shall himself violate any of
the provisions of this Act, shall have his license revoked, and in ad-
dition shall be liable to the penalty provided in section seven of this
Act, and shall be ineligible to act as guide for a period of five years
from the date of conviction. (35 Stat. 103.)

See notes to section 1 of this act, ante, § 3615.

§ 3620. (Act May 11, 1908, c. 162, § 6.) Shipments of wild birds,
or of heads, hides or carcasses of certain animals unaccom-
panied by required license or coupon or copy of affidavit, unlaw-
ful; collections for scientific purposes, etc., under permit,
etc., not to be prevented.

It shall be unlawful for any persons, firm, or corporation, or their
officers or agents, to deliver to any common carrier, or for the owner,
agent, or master of any vessel, or for any other person, to receive
for shipment or have in possession with intent to ship out of Alaska,
any wild birds, except eagles, or parts thereof, or any heads, hides,
or carcasses of brown bear, caribou, deer, moose, mountain sheep, or
mountain goats, or parts thereof, unless said heads, hides, or car-
casses are accompanied by the required license or coupon and by a
copy of the affidavit required by section five of this Act: Provided,
That nothing in this Act shall be construed to prevent the collection
of specimens for scientific purposes, the capture or shipment of live
animals and birds for exhibition or propagation, or the export from
Alaska of specimens under permit from the Secretary of Agriculture,
and under such restrictions and limitations as he may prescribe and
publish.

It shall be the duty of the collector of customs at Seattle, Portland;
and San Francisco to keep strict account of all consignments of game
animals received from Alaska, and no consignment of game shall be
entered until due notice thereof has been received from the governor
of Alaska or the Secretary of Agriculture, and found to agree with
the name and address on the shipment. In case consignments arrive
without licenses they shall be detained for sixty days, and if a license
be not then produced said consignments shall be forfeited to the
United States and shall be delivered by the collector of customs to the
United States marshal of the district for such disposition as the court
may direct. (35 Stat. 104.)

See notes to section 1 of this act, ante, § 3615.

(1449)
§ 3621. (Act May 11, 1908, c. 162, § 7.) Violation of provisions of act, or making false affidavit, a misdemeanor; forfeiture of game, guns, etc., and punishment; enforcement of act by officers; arrests without warrant, and seizures of game, etc.; duty of Secretary of Treasury to aid in carrying out provisions of act.

Penalties.—That any person violating any of the provisions of this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit to the United States all game or birds in his possession, and all guns, traps, nets, or boats used in killing or capturing said game or birds, and shall be punished for each offense by a fine of not more than two hundred dollars or imprisonment not more than three months, or by both such fine and imprisonment, in the discretion of the court. Any person making any false or untrue statements in any affidavit required by this Act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall forfeit to the United States all trophies in his possession, and shall be punished by a fine in any sum not more than two hundred dollars or imprisonment not more than three months, or by both such fine and imprisonment, in the discretion of the court.

Enforcement.—It is hereby made the duty of all marshals and deputy marshals, collectors or deputy collectors of customs, all officers of revenue cutters, and all game wardens to assist in the enforcement of this Act. Any marshal, deputy marshal, or warden in or out of Alaska may arrest without warrant any person found violating any of the provisions of this Act or any of the regulations herein provided, and may seize any game, birds, or hides, and any traps, nets, guns, boats, or other paraphernalia used in the capture of such game or birds and found in the possession of said person in or out of Alaska, and any collector or deputy collector of customs, or warden, or licensed guide, or any person authorized in writing by a marshal shall have the power above provided to arrest persons found violating this Act or said regulations and seize said property without warrant to keep and deliver the same to a marshal or a deputy marshal. It shall be the duty of the Secretary of the Treasury, upon request of the governor or Secretary of Agriculture, to aid in carrying out the provisions of this Act. (35 Stat. 105.)

See notes to section 1 of this act, ante, § 3615.
Appropriations for carrying out the provisions of this act are made in the annual sundry civil appropriation acts. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 3, § 1, 38 Stat. 49.

§ 3622. (Act March 4, 1911, c. 280.) Open season for certain game birds extended.

From and after the passage of this Act it shall be lawful to kill grouse, ptarmigan, shore birds, and waterfowl from September first to March first, both inclusive, anywhere in the Territory of Alaska. (36 Stat. 1360.)

This was an act entitled "An act for the protection of game in the Territory of Alaska."

(1450)
§ 3623. (Act June 14, 1906, c. 3299, § 1.) Fishing by aliens in waters of Alaska, except with rod, spear, or gaff, unlawful; sale of fish to aliens, and employment of aliens as laborers, not restricted.

It shall be unlawful for any person not a citizen of the United States, or who has declared his intention to become a citizen of the United States, and is not a bona fide resident therein, or for any company, corporation, or association not organized or authorized to transact business under the laws of the United States or under the laws of any State, Territory, or district thereof, or for any person not a native of Alaska, to catch or kill, or attempt to catch or kill, except with rod, spear, or gaff, any fish of any kind or species whatsoever in any of the waters of Alaska under the jurisdiction of the United States: Provided, however, That nothing contained in this Act shall prevent those lawfully taking fish in the said waters from selling the same, fresh or cured, in Alaska or in Alaskan waters, to any alien person, company, or vessel then being lawfully in said waters: And provided further, That nothing contained in this Act shall prevent any person, firm, corporation, or association lawfully entitled to fish in the waters of Alaska from employing as laborers any aliens who can now be lawfully employed under the existing laws of the United States, either at stated wages or by piecework, or both, in connection with Alaskan fisheries, or with the canning, salting or otherwise preserving of fish. (34 Stat. 263.)

This section and the four sections next following were an act entitled “An act to prohibit aliens from fishing in the waters of Alaska.”

The authority granted to the legislature of Alaska to alter, amend, modify, and repeal laws in force in Alaska, by Act Aug. 24, 1912, c. 387, § 3, ante, § 3530, did not extend to the fish laws, by a proviso annexed to said section.

The laws relating to the fur seal fisheries are contained in Act Aug. 24, 1912, c. 378, R. S. §§ 1906-1976, Act April 21, 1910, c. 183, §§ 1-3, 9, Act Aug. 18, 1894, c. 301, § 1, and Act March 3, 1893, c. 208, post, under Title LXVI B, “Protection of Fur-Seals and Other Fur-Bearing Animals.”

§ 3624. (Act June 14, 1906, c. 3299, § 2.) Penalty for violations of act; liability of vessels, etc.

Every person, company, corporation, or association found guilty of a violation of any provision of this Act or of any regulation made thereunder shall, for each offense, be fined not less than one hundred dollars nor more than five hundred dollars, which fine shall be a lien against any vessel or other property of the offending party or which was used in the commission of such unlawful act. Every vessel used or employed in violation of any provision of this Act or of any regulation made thereunder shall be liable to a fine of not less than one hundred dollars nor more than five hundred dollars, and may be seized and proceeded against by way of libel in any court having jurisdiction of the offense. (34 Stat. 264.)

§ 3625. (Act June 14, 1906, c. 3299, § 3.) Jurisdiction of prosecutions.

The violation of any provision of this Act or of any regulation made thereunder may be prosecuted in any United States district court of Alaska, California, Oregon, or Washington. (34 Stat. 264.)

The collector of customs of the district of Alaska is hereby authorized to search and seize every foreign vessel and arrest every person violating any provision of this Act or any regulation made thereunder, and the Secretary of Commerce [and Labor] shall have power to authorize officers of the Navy and of the Revenue-Cutter Service and agents of the Department of Commerce [and Labor] to likewise make such searches, seizures, and arrests. If any foreign vessel shall be found within the waters to which this Act applies, having on board fresh or cured fish and apparatus or implements suitable for killing or taking fish, it shall be presumed that the vessel and apparatus were used in violation of this Act until it is otherwise sufficiently proved. And every vessel, its tackle, apparatus, or implements so seized shall be given into the custody of the United States marshal of either of the districts mentioned in section three of this Act, and shall be held by him subject to the proceedings provided for in section two of this Act. The facts in connection with such seizure shall be at once reported to the United States district attorney for the district to which the vessel so seized shall be taken, whose duty it shall be to institute the proper proceedings. (34 Stat. 264.)

The words of this section, "and Labor," inclosed in brackets where they occur twice in the section, were superseded by the change of the designations of the Department of Commerce and Labor, and of the Secretary of Commerce and Labor, to Department of Commerce, and Secretary of Commerce, by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 932.

§ 3627. (Act June 14, 1906, c. 3299, § 5.) Regulations to carry act into effect; enforcement of provisions; treaties, etc., not affected.

The Secretary of Commerce [and Labor] shall have power to make rules and regulations not inconsistent with law to carry into effect the provisions of this Act. And it shall be the duty of the Secretary of Commerce [and Labor] to enforce the provisions of this Act and the rules and regulations made thereunder, and for that purpose he may employ, through the Secretary of the Treasury and the Secretary of the Navy, the vessels of the United States Revenue-Cutter Service and of the Navy: Provided, however, That nothing contained in this Act shall be construed as affecting any existing treaty or convention between the United States and any foreign power. (34 Stat. 264.)

The words of this section, "and Labor," inclosed in brackets, where they twice occur in the section, were superseded by the change of the designations of the Department of Commerce and Labor, and the Secretary of Commerce and Labor, to Department of Commerce, and Secretary of Commerce, by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 932.

(1452)
§ 3628. (Act June 26, 1906, c. 3547, § 1.) License taxes on business of canning, curing, etc., fish or manufacturing fish products in Alaska.

Every person, company, or corporation carrying on the business of canning, curing, or preserving fish or manufacturing fish products within the territory known as Alaska, ceded to the United States by Russia by the treaty of March thirtieth, eighteen hundred and sixty-seven, or in any of the waters of Alaska over which the United States has jurisdiction, shall, in lieu of all other license fees and taxes therefor and thereon, pay license taxes on their said business and output as follows: Canned salmon, four cents per case; pickled salmon, ten cents per barrel; salt salmon in bulk, five cents per one hundred pounds; fish oil, ten cents per barrel; fertilizer, twenty cents per ton. The payment and collection of such license taxes shall be under and in accordance with the provisions of the Act of March third, eighteen hundred and ninety-nine, entitled "An Act to define and punish crimes in the district of Alaska, and to provide a code of criminal procedure for the district," and amendments thereto. (34 Stat. 478.)

This section and the ten sections next following were part of the Alaska Salmon Fisheries Act, June 26, 1906, cited above.

Act March 3, 1899, c. 429, 50 Stat. 1253, mentioned in this section, was the Alaska Criminal Code.


Act March 3, 1899, c. 429, §§ 178-183, 30 Stat. 1280, which prohibited obstructions in any part of the rivers or streams of Alaska preventing the ascent of salmon; prohibited fishing above the tide waters of certain creeks or rivers, except with rod or spear; prohibited fishing for salmon in any of the waters of the Territory of Alaska, with certain exceptions, on Saturday; prohibited fishing for salmon at night, except with rod or spear; provided for the establishment of spawning grounds; provided for the establishment of weekly close seasons; authorized the appointment of inspectors of fisheries and assistant inspectors of fisheries; and provided for the prosecution of violations of the act. Said provisions were superseded by those of this act, set forth here, except those of said section 182, which provided for the appointment of an inspector of fisheries and two assistant inspectors of fisheries.

See note to Act June 9, 1896, c. 387, § 4, post, § 3638.

Sections 12-14 of this act are set forth post, §§ 3641-3643.

Section 15 of this act repealed all acts and parts of inconsistent acts. Section 16 thereof provided that it should take effect from and after its passage.

The authority granted to the legislature of Alaska to alter, amend, modify, and repeal laws in force in Alaska, by Act Aug. 24, 1912, c. 387, § 3, ante, § 3530, did not extend to the fish laws, by a proviso in said section.

The Commissioner of Fisheries was empowered and directed to institute an investigation into the habits, abundance, and distribution of the salmon of Alaska, etc., with a view of recommending to Congress additional legislation necessary to prevent the impairment or exhaustion thereof, etc., by Act March 2, 1888, c. 415, § 2, 25 Stat. 1009.

§ 3629. (Act June 26, 1906, c. 3547, § 2.) Exemption from license fees and taxation of owners of private salmon hatcheries in proportion to fry liberated; inspection and approval of hatcheries; proof and certificates of amount of fry liberated.

The catch and pack of salmon made in Alaska by the owners of
private salmon hatcheries operated in Alaska shall be exempt from all license fees and taxation of every nature at the rate of ten cases of canned salmon to every one thousand red or king salmon fry liberated, upon the following conditions:

That the Secretary of Commerce [and Labor] may from time to time, and on the application of the hatchery owner shall, within a reasonable time thereafter, cause such private hatcheries to be inspected for the purpose of determining the character of their operations, efficiency, and productiveness, and if he approve the same shall cause notice of such approval to be filed in the office of the clerk or deputy clerk of the United States district court of the division of the district of Alaska wherein any such hatchery is located, and shall also notify the owners of such hatchery of the action taken by him. The owner, agent, officer, or superintendent of any hatchery the effectiveness and productiveness of which has been approved as above provided shall, between the thirtieth day of June and the thirty-first day of December of each year, make proof of the number of salmon fry liberated during the twelve months immediately preceding the thirtieth day of June, by a written statement under oath. Such proof shall be filed in the office of the clerk or deputy clerk of the United States district court of the division of the district of Alaska wherein such hatchery is located, and when so filed shall entitle the respective hatchery owners to the exemption as herein provided; and a false oath as to the number of salmon fry liberated shall be deemed perjury and subject the offender to all the pains and penalties thereof. Duplicates of such statements shall also be filed with the Secretary of Commerce [and labor]. It shall be the duty of such clerk or deputy clerk in whose office the approval and proof heretofore provided for are filed to forthwith issue to the hatchery owner, causing such proofs to be filed, certificates which shall not be transferable and of such denominations as said owner may request (no certificate to cover fewer than one thousand fry), covering in the aggregate the number of fry so proved to have been liberated; and such certificates may be used at any time by the person, company, corporation, or association to whom issued for the payment pro tanto of any license fees or taxes upon or against or on account of any catch or pack of salmon made by them in Alaska; and it shall be the duty of all public officials charged with the duty of collecting or receiving such license fees or taxes to accept such certificates in lieu of money in payment of all license fees or taxes upon or against the pack of canned salmon at the ratio of one thousand fry for each ten cases of salmon. No hatchery owner shall obtain the rebates from the output of any hatchery to which he might otherwise be entitled under this Act unless the efficiency of said hatchery has first been approved by the Secretary of Commerce [and Labor] in the manner herein provided for. (34 Stat. 478.)

See notes to preceding section of this act, ante, § 3628.

The words of this section, "and Labor," inserted in brackets in each place where they occur in the section, were superseded by the change of the designa-

(1454)
sections of the Department of Commerce and Labor, and the Secretary of Commerce and Labor, to Department of Commerce, and Secretary of Commerce, by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 832.

§ 3630. (Act June 26, 1906, c. 3547, § 3.) Stationary obstructions in certain waters for capturing salmon, or preventing or impeding their ascent to their spawning grounds, unlawful.

It shall be unlawful to erect or maintain any dam, barricade, fence, trap, fish wheel, or other fixed or stationary obstruction, except for purposes of fish culture, in any of the waters of Alaska at any point where the distance from shore to shore is less than five hundred feet, or within five hundred yards of the mouth of any red-salmon stream where the same is less than five hundred feet in width, with the purpose or result of capturing salmon or preventing or impeding their ascent to their spawning grounds, and the Secretary of Commerce [and Labor] is hereby authorized and directed to have any and all such unlawful obstructions removed or destroyed. (34 Stat. 479.)

See notes to section 1 of this act, ante, § 828.

The words of this section, "and Labor," included in brackets, were superseded by the change of the designation of the Secretary of Commerce and Labor to Secretary of Commerce by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 832.

§ 3631. (Act June 26, 1906, c. 3547, § 4.) Laying or setting nets, seines, etc., in certain waters, restricted.

It shall be unlawful to lay or set any drift net, seine, set net, pound net, trap, or any other fishing appliance, for any purpose except for purposes of fish culture, across or above the tide waters of any creek, stream, river, estuary, or lagoon, for a distance greater than one-third the width of such creek, stream, river, estuary, or lagoon, or within one hundred yards outside of the mouth of any red-salmon stream where the same is less than five hundred feet in width. It shall be unlawful to lay or set any seine or net of any kind within one hundred yards of any other seine, net, or other fishing appliance which is being or which has been laid or set in any of the waters of Alaska, or to drive or construct any trap or any other fixed fishing appliance within six hundred yards laterally or within one hundred yards endwise of any other trap or fixed fishing appliance. (34 Stat. 479.)

See notes to section 1 of this act, ante, § 828.

§ 3632. (Act June 26, 1906, c. 3547, § 5.) Close season for salmon during part of each week and in small streams during every night; stationary and floating traps to be closed and free passage of salmon and other fishes permitted during weekly close season.

It shall be unlawful to fish for, take, or kill any salmon of any species in any manner or by any means except by rod, spear, or gaff, in any of the waters of Alaska over which the United States has jurisdiction, except Cook Inlet, the Delta of Copper River, Bering Sea, and the waters tributary thereto, from six o'clock post-
meridian of Saturday of each week until six o'clock antemeridian of the Monday following, or to fish for, or catch, or kill in any manner or by any appliances except by rod, spear, or gaff, any salmon in any stream of less than one hundred yards in width in Alaska between the hours of six o'clock in the evening and six o'clock in the morning of the following day of each and every day of the week. Throughout the weekly close season herein prescribed the gate, mouth, or tunnel of all stationary and floating traps shall be closed, and twenty-five feet of the webbing or net of the "heart" of such traps on each side next to the "pot" shall be lifted or lowered in such manner as to permit the free passage of salmon and other fishes. (34 Stat. 479.)

See notes to section 1 of this act, ante, § 3628.

§ 3633. (Act June 26, 1906, c. 3547, § 6.) Setting aside streams or lakes as spawning grounds, and limitation or prohibition of fishing or establishing close season therein.

The Secretary of Commerce [and Labor] may, in his discretion, set aside any streams or lakes as preserves for spawning grounds, in which fishing may be limited or entirely prohibited; and when, in his judgment, the results of fishing operations in any stream, or off the mouth thereof, indicate that the number of salmon taken is larger than the natural production of salmon in such stream, he is authorized to establish close seasons or to limit or prohibit fishing entirely for one year or more within such stream or within five hundred yards of the mouth thereof, so as to permit salmon to increase: Provided, however, That such power shall be exercised only after all persons interested shall be given a hearing, of which due notice must be given by publication; and where the interested parties are known to the Department they shall be personally notified by a notice mailed not less than thirty days previous to such hearing. No order made under this section shall be effective before the next calendar year after same is made: And provided further, That such limitations and prohibitions shall not apply to those engaged in catching salmon who keep such streams fully stocked with salmon by artificial propagation. (34 Stat. 480.)

See notes to section 1 of this act, ante, § 3628.

The words of this section "and Labor," enclosed in brackets, were superseded by the change of the designation of the Secretary of Commerce and Labor to Secretary of Commerce by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 932.

§ 3634. (Act June 26, 1906, c. 3547, § 7.) Canning or salting salmon for sale for food, more than 48 hours after killing, unlawful.

It shall be unlawful to can or salt for sale for food any salmon more than forty-eight hours after it has been killed. (34 Stat. 480.)

See notes to section 1 of this act, ante, § 3628.

§ 3635. (Act June 26, 1906, c. 3547, § 8.) Wanton waste or destruction of salmon or other food fishes unlawful.

It shall be unlawful for any person, company, or corporation wan-
tonly to waste or destroy salmon or other food fishes taken or
caught in any of the waters of Alaska. (34 Stat. 480.)

See notes to section 1 of this act, ante, § 3628.

§ 3636. (Act June 26, 1906, c. 3547, § 9.) False labeling, branding,
etc., of packages of fish offered for sale, unlawful; certain
terms permitted.

It shall be unlawful for any person, company, or corporation
canning, salting, or curing fish of any species in Alaska to use any
label, brand, or trade-mark which shall tend to misrepresent the
contents of any package of fish offered for sale: Provided, That
the use of the terms "red," "medium red," "pink," "chum," and so
forth, as applied to the various species of Pacific salmon under pre-
sent trade usages shall not be deemed in conflict with the provisions
of this Act when used to designate salmon of those known species.
(34 Stat. 480.)

See notes to section 1 of this act, ante, § 3628.

§ 3637. (Act June 26, 1906, c. 3547, § 10.) Annual reports by per-
sons, companies, etc., engaged in catching, curing, or in utilizing
fishery products, or in operating fish hatcheries.

Every person, company, and corporation engaged in catching,
curing, or in any manner utilizing fishery products, or in operating
fish hatcheries in Alaska, shall make detailed annual reports there-
of to the Secretary of Commerce [and Labor], on blanks furnished
by him, covering all such facts as may be required with respect
thereto for the information of the Department. Such reports shall
be sworn to by the superintendent, manager, or other person
having knowledge of the facts, a separate blank form being used
for each establishment in cases where more than one cannery,
saltery, or other establishment is conducted by a person, company,
or corporation, and the same shall be forwarded to the Depart-
ment at the close of the fishing season and not later than December
fifteenth of each year. (34 Stat. 480.)

See notes to section 1 of this act, ante, § 3628.

The words of this section "and Labor," inclosed in brackets, were su-
pered by the change of the designation of the Secretary of Commerce and
Labor to Secretary of Commerce by the act creating the Department of Labor,
Act March 4, 1913, c. 141, § 1, ante, § 932.

§ 3638. (Act June 26, 1906, c. 3547, § 11.) Provisions of act appli-
cable to catching or killing, except with rod, spear, or gaff, fish
of any kind; regulations to carry act into effect.

The catching or killing, except with rod, spear, or gaff, of any
fish of any kind or species whatsoever in any of the waters of
Alaska over which the United States has jurisdiction, shall be sub-
ject to the provisions of this Act, and the Secretary of Commerce
[and Labor] is hereby authorized to make and establish such rules
and regulations not inconsistent with law as may be necessary to
carry into effect the provisions of this Act. (34 Stat. 480.)

See notes to section 1 of this act, ante, § 3628.

The words of this section "and Labor," inclosed in brackets, were su-
pered by the change of the designation of the Secretary of Commerce and Labor
§ 3639. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

to Secretary of Commerce by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 932.

§ 3639. (Act June 9, 1896, c. 387, § 4.) Inspector of fisheries and assistant inspectors; appointment; salary; estimates submitted for salaries and expenses.

To enforce the provisions of law herein, and such regulations as the Secretary of Treasury may establish in pursuance thereof, he is authorized and directed to appoint one inspector of fisheries, at a salary of one thousand eight hundred dollars per annum, and two assistant inspectors, at a salary of one thousand six hundred dollars each per annum; and he will annually submit to Congress estimates to cover the salaries and actual traveling expenses of the officers hereby authorized and for such other expenditures as may be necessary to carry out the provisions of the law herein. (29 Stat. 317.)

This section was part of an act to amend Act March 2, 1889, c. 415, 25 Stat. 1069, entitled "An act to provide for the protection of the salmon fisheries of Alaska," which it amended and re-enacted as set forth therein, superseding said previous act.

The provisions of this act, mentioned in this section as "the provisions of law herein," were re-enacted in the Alaska Criminal Code, Act March 3, 1899, c. 429, §§ 173-183, 30 Stat. 1280.

See notes to Act June 26, 1903, c. 3547, § 1, ante, § 3629.

This section was itself superseded by Act June 4, 1897, c. 2, § 1, post, § 3640, which provided for the appointment of one agent and one assistant agent in lieu of the inspector and assistant inspectors authorized to be appointed by this section. But this section was subsequently re-enacted in the same language as part of the Alaska Criminal Code, Act March 3, 1899, c. 429, § 182, 30 Stat. 1281.

Subsequent sundry civil appropriation acts provide for salaries of an agent, an assistant agent, and an inspector. The provisions for the fiscal year 1914, by Act June 23, 1913, c. 3, § 1, 38 Stat. 63, make appropriations for one agent at $2,500, one inspector at $1,800, one assistant agent at $2,000, and one assistant agent at $1,800.

The jurisdiction, supervision, and control previously possessed and exercised by the Department of the Treasury over the salmon and other fisheries of Alaska were transferred and vested in the Department of Commerce, by provisions of the act establishing that department, Act Feb. 14, 1903, c. 552, § 7, ante, § 858.

§ 3640. (Act June 4, 1897, c. 2, § 1.) Agent and assistant agent; appointment; salary.

In lieu of the three inspectors whose employment is authorized by the Act of June ninth, eighteen hundred and ninety-six, there shall be appointed by the President, by and with the advice and consent of the Senate, one agent, at a salary of two thousand five hundred dollars per annum, and one assistant agent, at a salary of two thousand dollars per annum. (30 Stat. 29.)

This was a proviso annexed to an appropriation for protection of the salmon fisheries of Alaska, in the sundry civil appropriation act for the fiscal year 1898, cited above.

See note to Act June 9, 1896, c. 387, § 4, ante, § 3639.

§ 3641. (Act June 26, 1906, c. 3547, § 12.) Deputation of officers and employés of Department of Commerce and Labor for enforcement of act; annual estimates of expenses.

To enforce the provisions of this Act and such regulations as he (1458)
may establish in pursuance thereof, the Secretary of Commerce [and Labor] is authorized and directed to depute, in addition to the agent and assistant agent of salmon fisheries now provided by law, from the officers and employés of the Department of Commerce [and Labor], a force adequate to the performance of all work required for the proper investigation, inspection, and regulation of the Alaskan fisheries and hatcheries, and he shall annually submit to Congress estimates to cover the cost of the establishment and maintenance of fish hatcheries in Alaska, the salaries and actual traveling expenses of such officials, and for such other expenditures as may be necessary to carry out the provisions of this Act. (34 Stat. 480.)

This section and the two sections next following were part of the Alaska Salmon Fisheries Act of June 20, 1906, cited above.

See notes to section 1 of the act, ante, § 3628, and to Act June 9, 1896, c. 387, § 4, ante, § 3639.

The words of this section “and Labor,” inclosed in brackets where they twice occur in the section, were superseded by the change of the designation of the Department of Commerce and Labor, and the Secretary of Commerce and Labor, to Department of Commerce, and Secretary of Commerce, by the Act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 932.

§ 3642. (Act June 26, 1906, c. 3547, § 13.) Punishment for violations of act; forfeiture of vessels, etc.

Any person, company, corporation, or association violating any provision of this Act or any regulation established in pursuance thereof shall, upon conviction thereof, be punished by a fine not exceeding one thousand dollars or imprisonment at hard labor for a term of not more than ninety days, or by both such fine and imprisonment, at the discretion of the court; and in case of the violation of any of the provisions of section four of this Act and conviction thereof a further fine of not more than two hundred and fifty dollars per diem may, at the discretion of the court, be imposed for each day such obstruction is maintained. And every vessel or other apparatus or equipment used or employed in violation of any provision of this Act, or of any regulation made thereunder, may be seized by order of the Secretary of Commerce [and Labor], and shall be held subject to the payment of such fine or fines as may be imposed. (34 Stat. 481.)

See notes to section 1 of this act, ante, § 3628.

The words of this section “and Labor,” inclosed in brackets, were superseded by the change of the designation of the Secretary of Commerce and Labor to Secretary of Commerce by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 932.

§ 3643. (Act June 26, 1906, c. 3547, § 14.) Jurisdiction of prosecutions; duty of Secretary of Commerce and Labor to enforce act, and of district attorneys to institute proceedings.

The violation of any provision of this Act may be prosecuted in any district court of Alaska or any district court of the United States in the States of California, Oregon, or Washington. And it shall be the duty of the Secretary of Commerce [and Labor] to enforce the provisions of this Act and the rules and regulations made thereunder. And it shall be the duty of the district attorney to whom any violation is reported by any agent or representative of the Department of
THE TERRITORIES AND INSULAR POSSESSIONS

§ 3643 Commerce [and Labor] to institute proceedings necessary to carry out the provisions of this Act. (34 Stat. 481.)

See notes to section 1 of this act, ante, § 3626.
The words of this section "and Labor," inclosed in brackets where they twice occur in the section, were superseded by the change of the designations of the Department of Commerce and Labor, and the Secretary of Commerce and Labor to Department of Commerce, and Secretary of Commerce, by the Act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 932.

CHAPTER THREE B
Hawaii

The Hawaiian Islands, acquired by annexation to the United States by Joint Resolution of Congress, Res. July 7, 1898, No. 55, 30 Stat. 750, were designated the Territory of Hawaii, and a territorial government therefor was established, by Act April 30, 1900, c. 392, 31 Stat. 141.

This Chapter includes the provisions of said Hawaiian Territorial Act and of subsequent acts amendatory thereof or otherwise relating to the Territory, general and permanent in their nature, which remain in force and applicable to said Territory.

Sec. GENERAL PROVISIONS

DEFINITIONS
3644. Definitions of terms used in act; laws of Hawaii; Civil Laws; Penal Laws; Session Laws.

TERRITORY OF HAWAII
3645. Islands acquired to be Territory of Hawaii.

GOVERNMENT OF THE TERRITORY OF HAWAII
3646. Territorial government established; capital.

CITIZENSHIP
3647. Citizenship.

APPLICATION OF THE LAWS OF THE UNITED STATES
3648. Constitution and laws of United States in effect in Territory; certain provisions not to be applicable.

LAWS OF HAWAII
3649. Existing laws of Hawaii continued in force.

CERTAIN OFFICES ABOLISHED
3650. Certain offices of Republic of Hawaii abolished.

AMENDMENT OF OFFICIAL TITLES
3651. Titles of certain offices occurring in laws of Hawaii amended.

CONSTRUCTION OF EXISTING STATUTES
3652. Construction of existing statutes; prior rights of action, etc.; offenses previously punishable; no imprisonment for nonpayment of taxes nor for debt; prosecution of pending proceedings; remedy for breach of contract for labor, etc., only by civil suit for damages; laws of United States as to merchant seamen not affected; contracts for holding for service for definite term, terminated; contract labor laws extended to Territory.

STYLE OF PROCESS
3653. Style of process, etc., in Territorial courts.

THE LEGISLATURE

THE LEGISLATIVE POWER
3654. The legislature.
3655. Legislators to be elected.

GENERAL ELECTIONS
3656. General elections.

EACH HOUSE JUDGE OF QUALIFICATIONS OF MEMBERS
3657. Each house to be judge of election and qualifications of its members.

DISQUALIFICATIONS OF LEGISLATORS
3658. Legislators not to be elected or appointed to other office during term.

(1460)
3659. Government and territorial officers and employees ineligible as legislators.

3660. Idiots, lunatics, persons expelled from legislature for bribery, and convicts ineligible to vote or hold office.

OATH OF OFFICE

3661. Oath of legislators and territorial officers.

OFFICERS AND RULES

3662. Officers, rules, and journal of senate and house of representatives.

ATES AND NOES

3663. Ayes and noes to be recorded.

QUORUM

3664. Quorum; vote for final passage of a law.

3665. Less than quorum may adjourn and compel attendance of absentees.

3666. Ascertaining presence of quorum.

PUNISHMENT OF PERSONS NOT MEMBERS

3667. Punishment of persons not members for contempt; right of defense.

COMPENSATION OF MEMBERS

3668. Compensation of members.

PUNISHMENT OF MEMBERS

3669. Punishment of members.

EXEMPTION FROM LIABILITY

3670. Privilege of members.

EXEMPTION FROM ARREST

3671. Members exempt from arrest.

THE SENATE

NUMBER OF MEMBERS

3672. Number of senators; term; classes.

VACANCIES

3673. Vacancies in senate.

SEノTARIAL DISTRICTS

3674. Senatorial districts.

3675. Apportionment of senators.

QUALIFICATIONS OF SENATORS

3676. Qualifications of senators.

THE HOUSE OF REPRESENTATIVES

NUMBER OF REPRESENTATIVES

3677. Number of representatives.

TERM OF OFFICE

3678. Term of office of representatives.
THE TERRITORIES AND INSULAR POSSESSIONS

Sec. corporations; divorce; lotteries; intoxicating liquors; schools; government subscriptions to corporate stock; indebtedness; eminent domain.

TOWN, CITY AND COUNTY GOVERNMENT
3698. Counties, and town and city municipalities and officials thereof.

ELECTIONS

EXEMPTION OF ELECTORS ON ELECTION DAY
3699. Electors privileged from arrest on election day; exceptions.
3700. Military duty of electors on election day.

METHOD OF VOTING FOR REPRESENTATIVES
3701. Method of voting for representatives.

QUALIFICATIONS OF VOTERS FOR REPRESENTATIVES
3702. Qualifications of electors for representatives.

METHOD OF VOTING FOR SENATORS
3703. Method of voting for senators.

QUALIFICATIONS OF VOTERS FOR SENATORS AND IN ALL OTHER ELECTIONS
3704. Qualifications of electors for senators and in other elections.
3705. Persons in Territory by reason of military or naval service not qualified electors.
3706. Boundaries of election districts and precincts; apportionment of senators and representatives.

THE EXECUTIVE

THE EXECUTIVE POWER
3707. Governor; appointment; term; qualifications; commander of militia; power to pardon or reprieve.

ENFORCEMENT OF LAW
3708. Governor to execute laws; powers.

GENERAL POWERS OF THE GOVERNOR
3709. Former powers and duties of President, ministers, etc., of Republic vested in governor of territory.

SECRETARY OF THE TERRITORY
3710. Secretary of the territory; appointment; term; powers and duties.

(1462)
THE TERRITORIES AND INSULAR POSSESSIONS

Sec.

Disqualification by relationship, pecuniary interest, or previous judgment.

3725. Disqualification by relationship, pecuniary interest, or previous judgment.

UNITED STATES OFFICERS

DELEGATE TO CONGRESS

3726. Delegate to Congress; election; powers; vacancy; amendment of election laws.

FEDERAL COURT

3727. District court; two judges; appointment of judges, district attorney, and marshal; jurisdiction; powers of judges, district attorney and marshal; writs of error and appeals; jury trial; terms; clerk; reporter; writs of error and appeals to United States Supreme Court from Supreme Court of territory.

MISCELLANEOUS

REVENUES FROM WHARVES

3728. Wharves and revenue therefrom to belong to Territory; no tolls to be charged for use thereof by the United States.

3729. Public property ceded to United States to remain in possession and control of Territory; title to certain property may be transferred to Territory and to subdivisions thereof.

3730. Salaries of certain officers paid by United States; amounts.

REPEAL OF LAWS CONFERRING EXCLUSIVE FISHING RIGHTS

3731. Laws conferring exclusive fishing rights repealed; fisheries in sea waters free to United States citizens; vested rights.

PROCEEDINGS FOR OPENING FISHERIES TO CITIZENS

3732. Proceedings to establish private fishing right; condemnation.

QUARANTINE

3733. Quarantine stations; quarantine regulations under control of United States; station at Honolulu transferred to United States Marine-Hospital Service; health laws under jurisdiction of territorial government subject to United States quarantine laws.

3734. Certain vessels carrying Hawaiian register entitled to American register; trade between islands and United States subject to coasting trade laws.

3735. Crown land declared the property of Hawaiian government, free from trusts, etc.

3736. Public lands; management and disposition; use of revenue or proceeds therefrom.

3737. Disposition of personal or movable property ceded to the United States; previous sales and leases confirmed.

3738. Assumption by United States of Hawaiian public debt.

3739. Postal savings bank laws abolished.

3740. Hawaiian silver coins; receivable for dues to government of Territory of Hawaii and of United States.

3741. Recoinage into United States subsidiary silver coins.

3742. Exchange for United States silver coins.

3743. Recoinage of mutilated or abraded coins; payment therefor.

3744. Legal tender in Hawaii until January 1, 1904.

3745. Hawaiian silver certificates; redemption by Territorial Government.

3746. United States not bound to redeem Hawaiian silver certificates or silver coin, except as stated in act.

GENERAL PROVISIONS

DEFINITIONS

§ 3644. (Act April 30, 1900, c. 339, § 1.) Definitions of terms used in act; laws of Hawaii; Civil Laws; Penal Laws; Session Laws.

The phrase "the laws of Hawaii," as used in this Act without qualifying words, shall mean the constitution and laws of the Republic of Hawaii, in force on the twelfth day of August, eighteen hundred and (1463)
§ 3644  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

ninety-eight, at the time of the transfer of the sovereignty of the Hawaiian Islands to the United States of America.


This was the first section of the Hawaiian Territorial Act, cited above. The act was divided into six chapters, with sections numbered consecutively throughout the entire act.

Chapter I, "General Provisions," included sections 1–11; Chapter II, "The Legislature," sections 12–25; Chapter III, "The Executive," sections 66–80; Chapter IV, relating to the judicial department, sections 81 to 84; Chapter V, "United States Officers," sections 85–88; Chapter VI, "Miscellaneous," sections 89–104.

Sections 2–6, 8–11, of this act, included in said chapter I thereof, are set forth post, §§ 3646–3653.

Section 7 of the act repealed the constitution of the Republic of Hawaii and certain specified laws thereof, which either related to the government of the Republic and were superseded by this act and the extension thereby of the Constitution and laws of the United States to the Territory, or were merely local in their nature. Said section 7 is therefore omitted.

TERRITORY OF HAWAII

§ 3645. (Act April 30, 1900, c. 339, § 2.) Islands acquired to be Territory of Hawaii.

The islands acquired by the United States of America under an Act of Congress entitled "Joint resolution to provide for annexing the Hawaiian Islands to the United States," approved July seventh, eighteen hundred and ninety-eight, shall be known as the Territory of Hawaii. (31 Stat. 141.)

GOVERNMENT OF THE TERRITORY OF HAWAII

§ 3646. (Act April 30, 1900, c. 339, § 3.) Territorial government established; capital.

A Territorial government is hereby established over the said Territory, with its capital at Honolulu, on the island of Oahu. (31 Stat. 141.)

CITIZENSHIP

§ 3647. (Act April 30, 1900, c. 339, § 4.) Citizenship.

All persons who were citizens of the Republic of Hawaii on August twelfth, eighteen hundred and ninety-eight, are hereby declared to be citizens of the United States and citizens of the Territory of Hawaii.

And all citizens of the United States resident in the Hawaiian Islands who were resident there on or since August twelfth, eighteen hundred and ninety-eight, and all the citizens of the United States who shall hereafter reside in the Territory of Hawaii for one year shall be citizens of the Territory of Hawaii. (31 Stat. 141.)

(1464)
APPLICATION OF THE LAWS OF THE UNITED STATES

§ 3648. (Act April 30, 1900, c. 339, § 5, as amended, Act May 27, 1910, c. 258, § 1.) Constitution and laws of United States in effect in Territory; certain provisions not to be applicable.

The Constitution, and, except as otherwise provided, all the laws of the United States, including laws carrying general appropriations, which are not locally inapplicable, shall have the same force and effect within the said Territory as elsewhere in the United States: Provided, That sections eighteen hundred and forty-one to eighteen hundred and ninety-one, inclusive, nineteen hundred and ten and nineteen hundred and twelve, of the Revised Statutes, and the amendments thereto, and an Act entitled “An Act to prohibit the passage of local or special laws in the Territories of the United States, to limit territorial indebtedness, and for other purposes,” approved July thirtieth, eighteen hundred and eighty-six, and the amendments thereto, shall not apply to Hawaii. (31 Stat. 141. 36 Stat. 443.)

This section, as originally enacted, provided that the constitution, and, except as otherwise provided, all the laws of the United States not locally inapplicable should have the same force and effect within the Territory as elsewhere in the United States, with a proviso that R. S. §§ 1850, 1890, should not apply to the Territory. It was amended by adding the clause “including laws carrying general appropriations,” and by changing the proviso to read as set forth here, by Act May 27, 1910, c. 258, § 1, set forth above.

R. S. §§ 1841–1891, mentioned in said proviso, containing provisions relating to the government of all the Territories, are set forth, with the amendments thereto, ante, §§ 3427–3522.

R. S. §§ 1910, 1912, also mentioned in this section, containing provisions relating to the courts of certain Territories named or referred to therein, were superseded by the admission of all said territories to the Union as States. See note at end of Title XXII, “The States.”

Act July 30, 1886, c. 818, also mentioned in this section, prohibiting the passage of local or special laws in the Territories, and limiting Territorial indebtedness, etc., is set forth, with the amendments thereto, ante, §§ 3479–3487.

LAWS OF HAWAII


The laws of Hawaii not inconsistent with the Constitution or laws of the United States or the provisions of this Act shall continue in force, subject to repeal or amendment by the legislature of Hawaii or the Congress of the United States. (31 Stat. 142.)

Section 7 of this act repealed the Constitution of the Republic of Hawaii and certain laws described as set forth in specified acts, chapters, and sections of the civil laws, penal laws, and session laws, and relating to the specified subjects.

The municipal legislation of Hawaii, not inconsistent with the resolution of annexation, or with the Constitution or any treaty of the United States was to remain in force until Congress should otherwise determine by a provision of the resolution of annexation, Res. July 7, 1898, No. 55, 30 Stat. 750.

CERTAIN OFFICES ABOLISHED

§ 3650. (Act April 30, 1900, c. 339, § 8.) Certain offices of Republic of Hawaii abolished.

The offices of President, minister of foreign affairs, minister of the
interior, minister of finance, minister of public instruction, auditor-
genral, deputy auditor-general, surveyor-general, marshal, and dep-
uty marshal of the Republic of Hawaii are hereby abolished. (31
Stat. 143.)

AMENDMENT OF OFFICIAL TITLES

§ 3651. (Act April 30, 1900, c. 339, § 9.) Titles of certain offices
occurring in laws of Hawaii amended.
Wherever the words "President of the Republic of Hawaii," or
or their equivalents, occur in the laws of Hawaii not repealed by this
Act, they are hereby amended to read "Governor of the Territory of
Hawaii," or "Territory of Hawaii," or their equivalents, as the context
requires. (31 Stat. 143.)

CONSTRUCTION OF EXISTING STATUTES

§ 3652. (Act April 30, 1900, c. 339, § 10.) Construction of exist-
ing statutes; prior rights of action, etc.; offenses previously
punishable; no imprisonment for nonpayment of taxes nor for
debt; prosecution of pending proceedings; remedy for breach
of contract for labor, etc., only by civil suit for damages; laws
of United States as to merchant seamen not affected; contracts
for holding for service for definite term, terminated; contract
labor laws extended to Territory.

All rights of action, suits at law and in equity, prosecutions, and
judgments existing prior to the taking effect of this Act shall continue
to be as effectual as if this Act had not been passed; and those in
favor of or against the Republic of Hawaii, and not assumed by or
transferred to the United States, shall be equally valid in favor of
or against the government of the Territory of Hawaii. All offenses
which by statute then in force were punishable as offenses against
the Republic of Hawaii shall be punishable as offenses against the
government of the Territory of Hawaii, unless such statute is incon-
sistent with this Act, or shall be repealed or changed by law. No
person shall be subject to imprisonment for nonpayment of taxes nor
for debt. All criminal and penal proceedings then pending in the
courts of the Republic of Hawaii shall be prosecuted to final judg-
ment and execution in the name of the Territory of Hawaii; all such
proceedings, all actions at law, suits in equity, and other proceedings
then pending in the courts of the Republic of Hawaii shall be carried
on to final judgment and execution in the corresponding courts of the
Territory of Hawaii; and all process issued and sentences imposed
before this Act takes effect shall be as valid as if issued or imposed
in the name of the Territory of Hawaii: Provided, That no suit or
proceedings shall be maintained for the specific performance of any
contract heretofore or hereafter entered into for personal labor or
service, nor shall any remedy exist or be enforced for breach of any
such contract, except in a civil suit or proceeding instituted solely
to recover damages for such breach: Provided further, That the pro-
visions of this section shall not modify or change the laws of the
United States applicable to merchant seamen.
That all contracts made since August twelfth, eighteen hundred and
ninety-eight, by which persons are held for service for a definite term,
are hereby declared null and void and terminated, and no law shall be
passed to enforce said contracts in any way; and it shall be the duty
of the United States marshal to at once notify such persons so held of
the termination of their contracts.
That the Act approved February twenty-sixth, eighteen hundred and
eighty-five, "To prohibit the importation and migration of foreigners
and aliens under contract or agreement to perform labor in the United
States, its Territories, and the District of Columbia," and the Acts
amendatory thereof and supplemental thereto, be, and the same are
hereby, extended to and made applicable to the Territory of Hawaii.
(31 Stat. 143.)

Section 2 of Act Feb. 26, 1885, c. 164, mentioned in this section, prohibit-
ing the importation and migration of aliens under contract to perform labor,
in set forth, post, § 4245, with similar provisions of subsequent immigration
acts, under Title XXIX, "Immigration," Chapter A.

STYLE OF PROCESS

§ 3653. (Act April 30, 1900, c. 339, § 11.) Style of process, etc.,
in Territorial courts.
The style of all process in the Territorial courts shall hereafter run
in the name of "The Territory of Hawaii," and all prosecutions shall
be carried on in the name and by the authority of the Territory of
Hawaii. (31 Stat. 144.)

THE LEGISLATURE

THE LEGISLATIVE POWER

§ 3654. (Act April 30, 1900, c. 339, § 12.) The legislature.
The legislature of the Territory of Hawaii shall consist of two
houses, styled, respectively, the senate and house of representatives,
which shall organize and sit separately, except as otherwise herein
provided.
The two houses shall be styled "The legislature of the Territory of
Hawaii." (31 Stat. 144.)

Sections 12–65 of this act were included in chapter II thereof, "The Legis-
lature."
Sections 13–63, and 65 are set forth post, §§ 3655–3706.
Section 64 continued in force the rules and regulations for adminis-
trating and holding elections set forth in Ballon's Compilation, Civil Laws, Ap-
pendix, and the list of registering districts and precincts appended, with cer-
tain changes therein made by said section, consisting very largely of changes
in the designations of the several officers. This section was special in its
nature and is therefore omitted.

§ 3655. (Act April 30, 1900, c. 339, § 13.) Legislators to be elected.
No person shall sit as a senator or representative in the legislature
unless elected under and in conformity with this Act. (31 Stat. 144.)
(1467)
§ 3656. (Act April 30, 1900, c. 339, § 14.) General elections.
A general election shall be held on the Tuesday next after the first Monday in November, nineteen hundred, and every second year thereafter: Provided, however, That the governor may, in his discretion, on thirty days' notice, order a special election before the first general election, if, in his opinion, the public interests shall require a special session of the legislature. (31 Stat. 144.)

Each house judge of qualification of members

§ 3657. (Act April 30, 1900, c. 339, § 15.) Each house to be judge of election and qualifications of its members.
Each house shall be the judge of the elections, returns, and qualifications of its own members. (31 Stat. 145.)

Disqualifications of legislators

§ 3658. (Act April 30, 1900, c. 339, § 16.) Legislators not to be elected or appointed to other office during term.
No member of the legislature shall, during the term for which he is elected, be appointed or elected to any office of the Territory of Hawaii. (31 Stat. 145.)

Disqualifications of government officers and employees

§ 3659. (Act April 30, 1900, c. 339, § 17.) Government and territorial officers and employees ineligible as legislators.
No person holding office in or under or by authority of the Government of the United States or of the Territory of Hawaii shall be eligible to election to the legislature, or to hold the position of a member of the same while holding said office. (31 Stat. 145.)

§ 3660. (Act April 30, 1900, c. 339, § 18.) Idiots, lunatics, persons expelled from legislature for bribery, and convicts ineligible to vote or hold office.
No idiot or insane person, and no person who shall be expelled from the legislature for giving or receiving bribes or being accessory thereto, and no person who, in due course of law, shall have been convicted of any criminal offense punishable by imprisonment, whether with or without hard labor, for a term exceeding one year, whether with or without fine, shall register to vote or shall vote or hold any office in, or under, or by authority of, the government, unless the person so convicted shall have been pardoned and restored to his civil rights. (31 Stat. 145.)

Oath of office

§ 3661. (Act April 30, 1900, c. 339, § 19.) Oath of legislators and territorial officers.
Every member of the legislature, and all officers of the government of the Territory of Hawaii, shall take the following oath or affirmation:
I solemnly swear (or affirm), in the presence of Almighty God, that
I will faithfully support the Constitution and laws of the United States, and conscientiously and impartially discharge my duties as a member of the legislature, or as an officer of the government of the Territory of Hawaii (as the case may be). (31 Stat. 145.)

OFFICERS AND RULES

§ 3662. (Act April 30, 1900, c. 339, § 20.) Officers, rules, and journal of senate and house of representatives.

The senate and house of representatives shall each choose its own officers, determine the rules of its own proceedings, not inconsistent with this Act, and keep a journal. (31 Stat. 145.)

AYES AND NOES

§ 3663. (Act April 30, 1900, c. 339, § 21.) Ayes and noes to be recorded.

The ayes and noes of the members on any question shall, at the desire of one-fifth of the members present, be entered on the journal. (31 Stat. 145.)

QUORUM

§ 3664. (Act April 30, 1900, c. 339, § 22.) Quorum; vote for final passage of a law.

A majority of the number of members to which each house is entitled shall constitute a quorum of such house for the conduct of ordinary business, of which quorum a majority vote shall suffice; but the final passage of a law in each house shall require the vote of a majority of all the members to which such house is entitled. (31 Stat. 145.)

§ 3665. (Act April 30, 1900, c. 339, § 23.) Less than quorum may adjourn and compel attendance of absentees.

A smaller number than a quorum may adjourn from day to day, and compel the attendance of absent members, in such manner and under such penalties as each house may provide. (31 Stat. 145.)

§ 3666. (Act April 30, 1900, c. 339, § 24.) Ascertaining presence of quorum.

For the purpose of ascertaining whether there is a quorum present, the chairman shall count the number of members present. (31 Stat. 145.)

PUNISHMENT OF PERSONS NOT MEMBERS

§ 3667. (Act April 30, 1900, c. 339, § 25.) Punishment of persons not members for contempt; right of defense.

Each house may punish by fine, or by imprisonment not exceeding thirty days, any person not a member of either house who shall be guilty of disrespect of such house by any disorderly or contemptuous behavior in its presence or that of any committee thereof; or who shall, on account of the exercise of any legislative function, threaten harm to the body or estate of any of the members of such house; or who shall assault, arrest, or detain any witness or other person ordered (1460)
to attend such house, on his way going to or returning therefrom; or who shall rescue any person arrested by order of such house.

But the person charged with the offense shall be informed, in writing, of the charge made against him, and have an opportunity to present evidence and be heard in his own defense. (31 Stat. 146.)

COMPENSATION OF MEMBERS

§ 3668. (Act April 30, 1900, c. 339, § 26, as amended, Act May 27, 1910, c. 258, § 2.) Compensation of members.

The members of the legislature shall receive for their services, in addition to mileage at the rate of ten cents a mile each way, the sum of six hundred dollars for each regular session, payable in three equal installments and after the first, thirtieth, and fiftieth days of the session, and the sum of two hundred dollars for each special session: Provided, That they shall receive no compensation for any extra session held under the provisions of section fifty-four of this Act. (31 Stat. 146. 36 Stat. 444.)

This section, as originally enacted, fixed the compensation of members, in addition to mileage, at $400 for each regular session. It was amended by increasing that amount to $500, and by adding the proviso, to read as set forth here, by Act May 27, 1910, c. 258, § 2, cited above.

Appropriations for government in the Territory include provisions for legislative expenses, accompanied by a proviso similar to that annexed to this section by said amendment. The provision for the fiscal year 1913 was by Act Aug. 23, 1912, c. 350, § 1, 37 Stat. 385.

PUNISHMENT OF MEMBERS

§ 3669. (Act April 30, 1900, c. 339, § 27.) Punishment of members.

Each house may punish its own members for disorderly behavior or neglect of duty, by censure, or by a two-thirds vote suspend or expel a member. (31 Stat. 146.)

EXEMPTION FROM LIABILITY

§ 3670. (Act April 30, 1900, c. 339, § 28.) Privilege of members.

No member of the legislature shall be held to answer before any other tribunal for any words uttered in the exercise of his legislative functions in either house. (31 Stat. 146.)

EXEMPTION FROM ARREST

§ 3671. (Act April 30, 1900, c. 339, § 29.) Members exempt from arrest.

The members of the legislature shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest during their attendance at the sessions of the respective houses, and in going to and returning from the same: Provided, That such privilege as to going and returning shall not cover a period of over ten days each way. (31 Stat. 146.)

(1470)
THE SENATE

§ 3672. (Act April 30, 1900, c. 339, § 30.) Number of senators; term; classes.
The Senate shall be composed of fifteen members, who shall hold office for four years. (31 Stat. 146.)

This section, as originally enacted, contained a proviso that of the senators elected at the first general election seven should hold office for two years only and that the details of the apportionment should be provided for by the legislature. This proviso was superseded by provisions naming the seven senators who should serve for the two-year terms, contained in Act May 19, 1902, c. 817, 32 Stat. 200.

VACANCIES

§ 3673. (Act April 30, 1900, c. 339, § 31.) Vacancies in senate.
Vacancies caused by death, resignation, or otherwise shall be filled for the unexpired term at general or special elections. (31 Stat. 146.)

SENATORIAL DISTRICTS

§ 3674. (Act April 30, 1900, c. 339, § 32.) Senatorial districts.
For the purpose of representation in the senate, until otherwise provided by law, the Territory is divided into the following senatorial districts, namely:
First district: The island of Hawaii.
Second district: The islands of Maui, Molokai, Lanai, and Kahoalwe.
Third district: The island of Oahu.
Fourth district: The islands of Kauai and Niihau. (31 Stat. 147.)

§ 3675. (Act April 30, 1900, c. 339, § 33.) Apportionment of senators.
The electors in the said districts shall be entitled to elect senators as follows:
In the first district, four;
In the second district, three;
In the third district, six;
In the fourth district, two. (31 Stat. 147.)

QUALIFICATIONS OF SENATORS

§ 3676. (Act April 30, 1900, c. 339, § 34.) Qualifications of senators.
In order to be eligible to election as a senator a person shall—
Be a male citizen of the United States;
Have attained the age of thirty years;
Have resided in the Hawaiian Islands not less than three years and be qualified to vote for senators in the district from which he is elected. (31 Stat. 147.)

(1471)
§ 3677. Number of Representatives.

The house of representatives shall be composed of thirty members, elected, except as herein provided, every second year. (31 Stat. 147.)

§ 3678. Term of office of representatives.

The term of office of the representatives elected at any general or special election shall be until the next general election held thereafter. (31 Stat. 147.)

§ 3679. Vacancies in house of representatives.

Vacancies in the office of representative caused by death, resignation, or otherwise shall be filled for the unexpired term at special elections. (31 Stat. 147.)

§ 3680. Representative districts.

For the purpose of representation in the house of representatives, until otherwise provided by law, the Territory is divided into the following representative districts, namely:

First district: That portion of the island of Hawaii known as Puna, Hilo, and Hamakua.

Second district: That portion of the island of Hawaii known as Kau, Kona, and Kohala.

Third district: The islands of Maui, Molokai, Lanai, and Kahoolawe.

Fourth district: That portion of the island of Oahu lying east and south of Nuuanu street and a line drawn in extension thereof from the Nuuanu Pali to Mokapu Point.

Fifth District: That portion of the island of Oahu lying west and north of the fourth district.

Sixth district: The islands of Kauai and Niihau. (31 Stat. 147.)

§ 3681. Apportionment of representatives.

The electors in the said districts shall be entitled to elect representatives as follows:

In the first district, four;
In the second district, four;
In the third district, six;
In the fourth district, six;
In the fifth district, six;
In the sixth district, four. (31 Stat. 148.)

(1472)
QUALIFICATIONS OF REPRESENTATIVES

§ 3682. (Act April 30, 1900, c. 339, § 40.) Qualifications of representatives.

In order to be eligible to be a member of the house of representatives a person shall, at the time of election—

Have attained the age of twenty-five years;

Be a male citizen of the United States;

Have resided in the Hawaiian Islands not less than three years;

And shall be qualified to vote for representatives in the district from which he is elected. (31 Stat. 148.)

LEGISLATION

SESSIONS OF THE LEGISLATURE

§ 3683. (Act April 30, 1900, c. 339, § 41.) Date for regular session of legislature.

The first regular session of the legislature shall be held on the third Wednesday in February, nineteen hundred and one, and biennially thereafter, in Honolulu. (31 Stat. 148.)

§ 3684. (Act April 30, 1900, c. 339, § 42.) Adjournment by separate houses.

Neither house shall adjourn during any session for more than three days, or sine die, without the consent of the other. (31 Stat. 148.)

§ 3685. (Act April 30, 1900, c. 339, § 43.) Duration of sessions; extension; special sessions; sessions held away from capital.

Each session of the legislature shall continue not longer than sixty days, excluding Sundays and holidays: Provided, however, That the governor may extend such session for not more than thirty days.

The governor may convene the legislature, or the senate alone, in special session, and, in case the seat of government shall be unsafe from an enemy, riot, or insurrection, or any dangerous disease, direct that any regular or special session shall be held at some other than the regular meeting place. (31 Stat. 148.)

ENACTING CLAUSE—ENGLISH LANGUAGE

§ 3686. (Act April 30, 1900, c. 339, § 44.) Enacting clause; legislative proceedings conducted in English language.

The enacting clause of all laws shall be, "Be it enacted by the legislature of the Territory of Hawaii."

All legislative proceedings shall be conducted in the English language. (31 Stat. 148.)

TITLE OF LAWS

§ 3687. (Act April 30, 1900, c. 339, § 45.) Subject and title of laws.

Each law shall embrace but one subject, which shall be expressed in its title. (31 Stat. 148.)

Comp.St.13—93 (1473)
§ 3688. The Territories and Insular Possessions

Reading of Bills

§ 3688. (Act April 30, 1900, c. 339, § 46.) Passage of bills; three readings; vote on final passage.

A bill in order to become a law shall, except as herein provided, pass three readings in each house, on separate days, the final passage of which in each house shall be by a majority vote of all the members to which such house is entitled, taken by ayes and noes and entered upon its journal. (31 Stat. 148.)

Certification of Bills from One House to the Other

§ 3689. (Act April 30, 1900, c. 339, § 47.) Bills passed by one house to be certified to the other.

Every bill when passed by the house in which it originated, or in which amendments thereto shall have originated, shall immediately be certified by the presiding officer and clerk and sent to the other house for consideration. (31 Stat. 149.)

Signing Bills

§ 3690. (Act April 30, 1900, c. 339, § 48.) Signature of governor.

Except as herein provided, all bills passed by the legislature shall, in order to be valid, be signed by the governor. (31 Stat. 149.)

Veto of Governor

§ 3691. (Act April 30, 1900, c. 339, § 49.) Presentation of bills to governor; approval; veto; appropriation bills.

Every bill which shall have passed the legislature shall be certified by the presiding officers and clerks of both houses, and shall thereupon be presented to the governor. If he approves it, he shall sign it, and it shall become a law. If the governor does not approve such bill, he may return it, with his objections, to the legislature.

He may veto any specific item or items in any bill which appropriates money for specific purposes; but shall veto other bills, if at all, only as a whole. (31 Stat. 149.)

Procedure upon Receipt of Veto

§ 3692. (Act April 30, 1900, c. 339, § 50.) Procedure upon receipt of bill; passage over veto.

Upon the receipt of a veto message from the governor each house of the legislature shall enter the same at large upon its journal and proceed to reconsider such bill, or part of a bill, and again vote upon it by ayes and noes, which shall be entered upon its journal.

If after such reconsideration such bill, or part of a bill, shall be approved by a two-thirds vote of all the members to which each house is entitled, it shall thereby become law. (31 Stat. 149.)

(1474)
§ 3693. (Act April 30, 1900, c. 339, § 51.) Effect of governor's failure to sign or veto, or to return bill; exceptions.
If the governor neither signs nor vetoes a bill within ten days after it is delivered to him it shall become a law without his signature, unless the legislature adjourns sine die prior to the expiration of such ten days.
If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it unless the legislature by their adjournment prevents its return, in which case it shall not be a law. (31 Stat. 149.)

APPROPRIATIONS

§ 3694. (Act April 30, 1900, c. 339, § 52, as amended, Act May 27, 1910, c. 258, § 3.) Appropriations.
Appropriations, except as herein otherwise provided, shall be made by the legislature. (31 Stat. 149. 36 Stat. 444.)
This section, as originally enacted, provided "that appropriations, except as herein otherwise provided, shall be made biennially by the legislature," with a proviso annexed authorizing the governor to use such funds as he thought requisite and proper for carrying on the government, etc., pending the time the act should take effect and until a session of the legislature should be held. It was amended by the omission of the word "biennially," and of said proviso, making it read as set forth here, by Act May 27, 1910, c. 258, § 3, last cited above.
This section became effective upon the approval of the act, by section 104 thereof, 31 Stat. 162.

The governor shall submit to the legislature, at each regular session, estimates for appropriations for the succeeding biennial period. (31 Stat. 149.)

§ 3696. (Act April 30, 1900, c. 339, § 54.) Failure to make appropriations for current expenses.
In case of failure of the legislature to pass appropriation bills providing for payments of the necessary current expenses of carrying on the government and meeting its legal obligations as the same are provided for by the then existing laws, the governor shall, upon the adjournment of the legislature, call it in extra session for the consideration of appropriation bills, and until the legislature shall have acted the treasurer may, with the advice of the governor, make such payments, for which purpose the sums appropriated in the last appropriation bills shall be deemed to have been reappropriated. And all legislative and other appropriations made prior to the date when this Act shall take effect, shall be available to the government of the Territory of Hawaii. (31 Stat. 150.)
When an extra session is held under the provisions of this section, the members are to receive no compensation therefor, by a proviso of section 26 of this act, as amended, ante, § 3088.

(1475)
§ 3697. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

LEGISLATIVE POWER

§ 3697. (Act April 30, 1900, c. 339, § 55, as amended, Act May 27, 1910, c. 258, § 4.) Legislative power; scope; reapportionment; exclusive privileges, etc., forbidden; incorporation; real estate holdings of corporations; divorce; lotteries; intoxicating liquors; schools; government subscriptions to corporate stock; indebtedness; eminent domain.

The legislative power of the Territory shall extend to all rightful subjects of legislation not inconsistent with the Constitution and laws of the United States locally applicable. The legislature, at its first regular session after the census enumeration shall be ascertained, and from time to time thereafter, shall reapportion the membership in the senate and house of representatives among the senatorial and representative districts on the basis of the population in each of said districts who are citizens of the Territory; but the legislature shall not grant to any corporation, association, or individual any special or exclusive privilege, immunity, or franchise without the approval of Congress; nor shall it grant private charters, but it may by general act permit persons to associate themselves together as bodies corporate for manufacturing, agricultural, and other industrial pursuits, and for conducting the business of insurance, savings banks, banks of discount and deposit (but not of issue), loan, trust, and guaranty associations, for the establishment and conduct or cemeteries, and for the construction and operation of railroads, wagon roads, vessels, and irrigating ditches, and the colonization and improvement of lands in connection therewith, or for colleges, seminaries, churches, libraries, or any other benevolent, charitable, or scientific association: Provided, That no corporation, domestic or foreign, shall acquire and hold real estate in Hawaii in excess of one thousand acres; and all real estate acquired or held by such corporation or association contrary hereto shall be forfeited and escheat to the United States, but existing vested rights in real estate shall not be impaired. No divorce shall be granted by the legislature, nor shall any divorce be granted by the courts of the Territory unless the applicant therefor shall have resided in the Territory for two years next preceding the application, but this provision shall not affect any action pending when this Act takes effect; nor shall any lottery or sale of lottery tickets be allowed; nor shall spirituous or intoxicating liquors be sold except under such regulations and restrictions as the Territorial legislature shall provide; nor shall any public money be appropriated for the support or benefit of any sectarian, denominational, or private school, or any school not under the exclusive control of the government; nor shall the government of the Territory of Hawaii, or any political or municipal corporation or subdivision of the Territory, make any subscription to the capital stock of any incorporated company, or in any manner lend its credit for the use thereof; nor shall any debt be authorized to be contracted (1478)
by or on behalf of the Territory, or any political or municipal corporation or subdivision thereof, except to pay the interest upon the existing indebtedness, to suppress insurrection, or to provide for the common defense, except that in addition to any indebtedness created for such purposes the legislature may authorize loans by the Territory, or any such subdivision thereof, for the erection of penal, charitable, and educational institutions, and for public buildings, wharves, roads, and harbor and other public improvements, but the total of such indebtedness incurred in any one year by the Territory or any such subdivision shall not exceed one per centum of the assessed value of the property in the Territory or subdivision, respectively as shown by the then last assessments for taxation, whether such assessments are made by the Territory or the subdivision or subdivisions, and the total indebtedness of the Territory shall not at any time be extended beyond seven per centum of such assessed value of property in the Territory and the total indebtedness of any such subdivision shall not at any time be extended beyond three per centum of such assessed value of the property in the subdivision, but nothing in this Act shall prevent the refunding of any indebtedness at any time; nor shall any such loan be made upon the credit of the public domain or part thereof; nor shall any bond or other instrument of any such indebtedness be issued unless made payable in not more than thirty years from the date of the issue thereof; nor shall any such bond or indebtedness be issued or incurred until approved by the President of the United States: Provided, That the legislature may by general act provide for the condemnation of property for public uses, including the condemnation of rights of way for the transmission of water for irrigation and other purposes. (31 Stat. 150. 36 Stat. 444.)

The amendment to this section by Act May 27, 1910, c. 268, § 4, cited above, consisted chiefly in the omission of the requirement that the bonds issued should be redeemable in not more than 5 years, the extension of the time in which the bonds should be made payable from 15 years to 30 years, and the addition of the last proviso, relating to condemnation of property as set forth here.

TOWN, CITY, AND COUNTY GOVERNMENT

§ 3698. (Act April 30, 1900, c. 339, § 56, as amended, Act March 3, 1905, c. 1465, § 1.) Counties, and town and city municipalities and officials thereof.

The legislature may create counties and town and city municipalities within the Territory of Hawaii and provide for the government thereof; and all officials thereof shall be appointed or elected, as the case may be, in such manner as shall be provided by the governor and legislature of the Territory. (31 Stat. 151. 33 Stat. 1035.)

The amendment to this section by Act March 3, 1905, c. 1465, § 1, cited above, consisted in the addition of the last proviso beginning with the words "and all officials," to the end of the section as set forth here.

(1477)
§ 3699. (Act April 30, 1900, c. 339, § 57.) Electors privileged from arrest on election day; exceptions.
Every elector shall be privileged from arrest on election day during his attendance at election and in going to and returning therefrom, except in case of breach of the peace then committed, or in case of treason or felony. (31 Stat. 151.)

§ 3700. (Act April 30, 1900, c. 339, § 58.) Military duty of electors on election day.
No elector shall be so obliged to perform military duty on the day of election as to prevent his voting, except in time of war or public danger, or in case of absence from his place of residence in actual military service, in which case provision may be made by law for taking his vote. (31 Stat. 151.)

METHOD OF VOTING FOR REPRESENTATIVES
§ 3701. (Act April 30, 1900, c. 339, § 59.) Method of voting for representatives.
Each voter for representative may cast a vote for as many representatives as are to be elected from the representative district in which he is entitled to vote.
The required number of candidates receiving the highest number of votes in the respective representative districts shall be representatives for such districts. (31 Stat. 151.)

QUALIFICATIONS OF VOTERS FOR REPRESENTATIVES
§ 3702. (Act April 30, 1900, c. 339, § 60.) Qualifications of electors for representatives.
In order to be qualified to vote for representatives a person shall—
First. Be a male citizen of the United States.
Second. Have resided in the Territory not less than one year preceding and in the representative district in which he offers to register not less than three months immediately preceding the time at which he offers to register.
Third. Have attained the age of twenty-one years.
Fourth. Prior to each regular election, during the time prescribed by law for registration, have caused his name to be entered on the register of voters for representatives for his district.
Fifth. Be able to speak, read, and write the English or Hawaiian language. (31 Stat. 151.)

METHOD OF VOTING FOR SENATORS
§ 3703. (Act April 30, 1900, c. 339, § 61.) Method of voting for senators.
Each voter for senator may cast one vote for each senator to be elected from the senatorial district in which he is entitled to vote.
The required number of candidates receiving the highest number of votes in the respective senatorial districts shall be the senators for such district. (31 Stat. 152.)
(1478)
QUALIFICATIONS OF VOTERS FOR SENATORS AND IN ALL OTHER ELECTIONS

§ 3704. (Act April 30, 1900, c. 339, § 62.) Qualifications of electors for senators and in other elections.

In order to be qualified to vote for senators and for voting in all other elections in the Territory of Hawaii a person must possess all the qualifications and be subject to all the conditions required by this Act of voters for representatives. (31 Stat. 152.)

§ 3705. (Act April 30, 1900, c. 339, § 63.) Persons in Territory by reason of military or naval service not qualified electors.

No person shall be allowed to vote who is in the Territory by reason of being in the Army or Navy or by reason of being attached to troops in the service of the United States. (31 Stat. 152.)

§ 3706. (Act April 30, 1900, c. 339, § 65.) Boundaries of election districts and precincts; apportionment of senators and representatives.

The legislature of the Territory may from time to time establish and alter the boundaries of election districts and voting precincts and apportion the senators and representatives to be elected from such districts. (31 Stat. 151.)

THE EXECUTIVE

THE EXECUTIVE POWER

§ 3707. (Act April 30, 1900, c. 339, § 66.) Governor; appointment; term; qualifications; commander of militia; power to pardon or reprieve.

The executive power of the government of the Territory of Hawaii shall be vested in a governor, who shall be appointed by the President, by and with the advice and consent of the Senate of the United States, and shall hold office for four years and until his successor shall be appointed and qualified, unless sooner removed by the President. He shall be not less than thirty-five years of age; shall be a citizen of the Territory of Hawaii; shall be commander in chief of the militia thereof; may grant pardons or reprieves for offenses against the laws of the said Territory and reprieves for offenses against the laws of the United States until the decision of the President is made known thereon. (31 Stat. 153.)

Sections 68-80 of this act were included in chapter 3 thereof, "The Executive."

ENFORCEMENT OF LAW

§ 3708. (Act April 30, 1900, c. 339, § 67.) Governor to execute laws; powers.

The governor shall be responsible for the faithful execution of the laws of the United States and of the Territory of Hawaii within the said Territory, and whenever it becomes necessary he may call upon the commanders of the military and naval forces of the United States in the Territory of Hawaii, or summon the posse comitatus, or call out the militia of the Territory to prevent or suppress lawless violence, invasion, insurrection, or rebellion in said Territory, and he may,
§ 3709  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23

in case of rebellion or invasion, or imminent danger thereof, when the
public safety requires it, suspend the privilege of the writ of habeas
 corpus, or place the Territory or any part thereof, under martial law
until communication can be had with the President and his decision
thereon made known.  (31 Stat. 153.)

GENERAL POWERS OF THE GOVERNOR

§ 3709. (Act April 30, 1900, c. 339, § 68.) Former powers and du-
ties of President, ministers, etc., of Republic vested in governor
of territory.

All the powers and duties which, by the laws of Hawaii, are con-
ferred upon or required of the President or any minister of the Re-
public of Hawaii (acting alone or in connection with any other offi-
cer or person or body) or the cabinet or executive council, and not
inconsistent with the Constitution or laws of the United States, are
conferred upon and required of the governor of the Territory of
Hawaii, unless otherwise provided.  (31 Stat. 153.)

SECRETARY OF THE TERRITORY

§ 3710. (Act April 30, 1900, c. 339, § 69.) Secretary of the terri-
tory; appointment; term; powers and duties.

There shall be a secretary of the said Territory, who shall be ap-
pointed by the President, by and with the advice and consent of the
Senate of the United States, and who shall be a citizen of the Terri-
tory of Hawaii and hold his office for four years and until his suc-
cessor shall be appointed and qualified, unless sooner removed by the
President.  He shall record and preserve all the laws and proceedings
of the legislature and all acts and proceedings of the governor, and
promulgate proclamations of the governor.  He shall, within thirty
days after the end of each session of the legislature, transmit to the
President, the President of the Senate, and the Speaker of the House
of Representatives of the United States one copy each of the laws and
journals of such session.  He shall transmit to the President, semi-
annually, on the first days of January and July, a copy of the executive
proceedings, and shall perform such other duties as are prescribed in
this Act or as may be required of him by the legislature of Hawaii.
(31 Stat. 154.)

ACTING GOVERNOR IN CERTAIN CONTINGENCIES

§ 3711. (Act April 30, 1900, c. 339, § 70.) Secretary to act as gov-
ernor in case of death, etc., of governor.

In case of the death, removal, resignation, or disability of the
governor, or his absence from the Territory, the secretary shall exer-
cise all the powers and perform all the duties of governor during such
vacancy, disability, or absence, or until another governor is appointed
and qualified.  (31 Stat. 154.)

ATTORNEY-GENERAL

§ 3712. (Act April 30, 1900, c. 339, § 71.) Attorney-general; pow-
ers and duties.

There shall be an attorney-general, who shall have the powers and
(1480)
duties of the attorney-general and those of the powers and duties of
the minister of the interior which relate to prisons, prisoners, and
prison inspectors, notaries public, and escheat of lands under the laws
of Hawaii, except as changed by this Act and subject to modification
by the legislature. (31 Stat. 154.)

TREASURER

§ 3713. (Act April 30, 1900, c. 339, § 72.) Treasurer; powers and
duties.

There shall be a treasurer, who shall have the powers and duties of
the minister of finance and those of the powers and duties of the min-
ister of the interior which relate to licenses, corporations, companies,
and partnerships, business conducted by married women, newspapers,
registry of conveyances, and registration of prints, labels, and trade-
marks under the laws of Hawaii, except as changed in this Act and
subject to modification by the legislature. (31 Stat. 154.)

COMMISSIONER OF PUBLIC LANDS

§ 3714. (Act April 30, 1900, c. 339, § 73, as amended, Act April 2,
1908, c. 124, and Act May 27, 1910, c. 258, § 5.) Public lands.

The laws of Hawaii relating to public lands, the settlement of
boundaries, and the issuance of patents on land-commission awards,
except as changed by this act, shall continue in force until Con-
gress shall otherwise provide. That, subject to the approval of the
President, all sales, grants, leases, and other dispositions of the pub-
lic domain, and agreements concerning the same, and all franchises
granted by the Hawaiian government in conformity with the laws of
Hawaii between the seventh day of July, eighteen hundred and ninety-
eight, and the twenty-eighth day of September, eighteen hundred and
ninety-nine, are hereby ratified and confirmed. In said laws “land
patent” shall be substituted for “royal patent;” “commissioner of
public lands” for “minister of the interior,” “agent of public lands,”
and “commissioners of public lands,” or their equivalents; and the
words “that I am a citizen of the United States,” or “that I have de-
clared my intention to become a citizen of the United States, as re-
quired by law,” for the words “that I am a citizen by birth (or nat-
uralization) of the Republic of Hawaii,” or “that I have received
letters of denization under the Republic of Hawaii,” or “that I have
received a certificate of special right of citizenship from the Repub-
lic of Hawaii.” And no lease of agricultural land shall be granted,
sold, or renewed by the government of the Territory of Hawaii for
a longer period than fifteen years, and in every such case the land,
or any part thereof so leased, may at any time during the term of
the lease be withdrawn from the operation thereof for homestead or
public purposes, in which case the rent reserved shall be reduced in
proportion to the value of the part so withdrawn, and every such
lease shall contain a provision to that effect. All funds arising from
the sale or lease or other disposal of such lands shall be appropriated
by the laws of the government of the Territory of Hawaii and ap-
plied to such uses and purposes for the benefit of the inhabitants of

(1481)
the Territory of Hawaii as are consistent with the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight: Provided, There shall be excepted from the provisions of this section all lands heretofore set apart, or reserved, by Executive order, or orders, by the President of the United States.

No person shall hereafter be entitled to receive any certificate of occupation, right of purchase lease, cash freehold agreement, or special homestead agreement who or whose husband or wife shall previously have taken or held any land under any such certificate, lease or agreement hereafter made or issued, or under any homestead lease or patent based thereon; or who or whose husband or wife, or both of them, shall then own other land in the Territory, the combined area of which and the land in question exceeds eighty acres; or who is an alien, unless he has declared his intention to become a citizen of the United States as provided by law, nor shall any person who, having so declared his intention, shall hereafter take or hold under such certificate, lease, or agreement, continue so to hold or become entitled to a homestead lease or patent of the land unless he shall have become a citizen within five years after so taking.

No land for which any such certificate, lease, or agreement shall hereafter be issued, or any part thereof or interest therein or control thereof, shall, without the written consent of the commissioner and governor, thereafter, whether before or after a homestead lease or patent has been issued thereon, be or be contracted to be in any way, directly or indirectly, by process of law or otherwise conveyed, mortgaged, leased, or otherwise transferred to or acquired or held by or for the benefit of any alien or corporation; or before or after the issuance of a homestead or before the issuance of a patent, to or by or for the benefit of any other person; or, after the issuance of a patent, to or by or for the benefit of any person who owns, holds, or controls, directly or indirectly, other land or the use thereof the combined area of which and the land in question exceeds eighty acres: Provided, That these prohibitions shall not apply to transfers or acquisitions by inheritance or between tenants in common.

Any land in respect of which any of the foregoing provisions shall be violated shall forthwith be forfeited and resume the status of public land and may be recovered by the Territory or its successors in an action of ejectment or other appropriate proceeding. And noncompliance with the terms of any such certificate, lease, or agreement, or of the law applicable thereto, shall entitle the commissioner, with the approval of the governor before patent has been issued, with or without legal process, notice, demand, or previous entry, to retake possession and thereby determine the estate: Provided, That the times limited for compliance with any such terms may be extended by the commissioner, with such approval, upon its appearing that an effort has been made in good faith to comply therewith.

The persons entitled to take under any such certificate, lease, or agreement shall be determined by drawing or lot, after public notice as hereinafter provided; and any lot not taken, or taken and forfeited, or any lot or part thereof surrendered with the consent of the
commissioner, which is hereby authorized, may be disposed of upon application at not less than the advertised price by any such certificate, lease, or agreement without further notice. The notice of any sale, drawing, or allotment of public land shall be by publication for a period of not less than sixty days in one or more newspapers of general circulation published in the Territory.

The commissioner, with the approval of the governor, may give to any citizen of the United States or to any person who has legally declared his intention to become a citizen, and who shall hereafter become such, which said person has, or who and whose predecessors in interest have, improved any parcel of public lands and resided thereon continuously since April thirtieth, nineteen hundred, a preference right to purchase so much of such parcel and such adjoining land as may reasonably be required for a home, at a fair price, to be determined by three disinterested citizens appointed by the governor, in the determination of which price the value of improvement shall, when deemed just and reasonable, be disregarded: Provided, however, That this privilege shall not extend to any original lessee or to an assignee of an entire lease of public lands.

The commissioner may also, with such approval, issue, for a nominal consideration, to any church or religious organization, or person or persons or corporation representing it, a patent for any parcel of public land occupied continuously for not less than five years heretofore and still occupied by it as a church site under the laws of Hawaii.

No sale of lands for other than homestead purposes, except as herein provided, and no exchange by which the Territory shall convey lands exceeding either forty acres in area or five thousand dollars in value shall be made. No lease of agricultural lands exceeding forty acres in area, or of pastoral or waste lands exceeding two hundred acres in area, shall be made without the approval of two-thirds of the board of public lands which is hereby constituted, the members of which are to be appointed by the governor as provided in section eighty of this Act and until the legislature shall otherwise provide said board shall consist of six members and its members be appointed for terms of four years: Provided, however, That the commissioner may, with the approval of said board, sell for residence purposes lots and tracts, not exceeding three acres in area, and that sales of government lands may be made upon the approval of said board whenever necessary to locate thereon railroad rights of way, railroad tracks, side tracks, depot grounds, pipe lines, irrigation ditches, pumping stations, reservoirs, factories and mills and appurtenances thereto, including houses for employees, mercantile establishments, hotels, churches, and private schools, and all such sales shall be limited to the amount actually necessary for the economical conduct of such business or undertaking: Provided further, That no exchange of government lands shall hereafter be made without the approval of two-thirds of the members of said board, and no such exchange shall be made except to acquire lands directly for public uses.

Whenever twenty-five or more persons, having the qualifications of
homesteaders, who have not theretofore made application under this Act shall make written application to the commissioner of public lands for the opening of agricultural lands for settlement in any locality or district, it shall be the duty of said commissioner to proceed expeditiously to survey and open for entry agricultural lands, whether unoccupied or under lease with the right of withdrawal, sufficient in area to provide homesteads for all such persons, together with all persons of like qualifications who shall have filed with such commissioner prior to the survey of such lands written applications for homesteads in the district designated in said applications. The lands to be so opened for settlement by said commissioner shall be either the specific tract or tracts applied for or other suitable and available agricultural lands in the same geographical district and, as far as possible, in the immediate locality of and as nearly equal to that applied for as may be available: Provided, however, That no leased land, under cultivation, shall be taken for homesteading until any crops growing thereon shall have been harvested.

It shall be the duty of the commissioner of public lands to cause to be surveyed and opened for homestead entry a reasonable amount of desirable agricultural lands and also of pastoral lands in various parts of the Territory for homestead purposes on or before January first nineteen hundred and eleven, and he shall annually thereafter cause to be surveyed for homestead purposes such amount of agricultural lands and pastoral lands in various parts of the Territory as there may be demand for by persons having the qualifications of homesteaders; and in laying out any homestead the Commissioner of Public Lands shall include therein an amount, not exceeding eighty acres in area, sufficient to support thereon an ordinary family; and all necessary expenses for surveying and opening any such lands for homestead shall be paid for out of any funds of the territorial treasury derived from the sale or lease of the public lands, which funds are hereby made available for such purposes.

Nothing herein contained shall be construed to prevent said commissioner from surveying and opening for homestead purposes and as a single homestead entry public lands suitable for both agricultural and pastoral purposes, whether such lands be situated in one body or detached tracts, to the end that homesteaders may be provided with both agricultural and pastoral lands wherever there is demand therefor; nor shall the ownership of a residence lot or tract, not exceeding three acres in area, hereafter disqualify any citizen from applying for and receiving any form of homestead entry, including a homestead lease.

All lands in the possession, use, and control of the Territory shall hereafter be managed by the commissioner, except such as shall be set aside for public purposes as hereinafter provided; all sales and other dispositions of such land shall be made by the commissioner or under his direction, for which purpose, if necessary, the land may be transferred to his department from any other department by direction of the governor, and all patents and deeds of such land shall issue from the office of the commissioner, who shall countersign the
same and keep a record thereof. Lands conveyed to the Territory in exchange for other lands that are subject to the land laws of Hawaii, as amended by this Act, shall, except as otherwise provided, have the same status and be subject to such laws as if they had previously been public lands of Hawaii. All orders setting aside lands for forest or other public purposes, or withdrawing the same, shall be made by the governor, and lands while so set aside for such purposes may be managed as may be provided by the laws of the Territory. The commissioner is hereby authorized to perform any and all acts, prescribe forms of oaths, and, with the approval of the governor and said board, make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this section and the land laws of Hawaii into full force and effect. (31 Stat. 154. 35 Stat. 56. 36 Stat. 444.)

The amendment to this section by Act April 2, 1908, c. 124, cited above, consisted chiefly in increasing the maximum period for agricultural land leases from 5 years to 15, and the insertion of the provision beginning with the words "And in every such case the land, or any part thereof so leased," etc., and ending with the words "and every such lease shall contain a provision to that effect."

The amendment by Act May 27, 1910, c. 258, § 5, last cited above, consisted in the addition of the provisions beginning with the words "No person shall hereafter be entitled to receive any certificate of occupation," etc., to the end of the section as set forth here.

Res. July 7, 1888, No. 55, 30 Stat. 750, the joint resolution of annexation mentioned in this section, required Congress to enact special laws for the public lands in Hawaii and provided that all revenue therefrom, except such as was occupied for the civil, military or naval purposes of the United States, or was assigned for the use of the local government, should be used solely for the benefit of the inhabitants of the islands for educational and other public purposes.

COMMISSIONER OF AGRICULTURE AND FORESTRY

§ 3715. (Act April 30, 1900, c. 339, § 74.) Laws relating to agriculture and forestry continued; modifications.

The laws of Hawaii relating to agriculture and forestry, except as changed by this Act, shall continue in force, subject to modification by Congress or the legislature. In said laws "commissioner of agriculture and forestry" shall be substituted, respectively, for “bureau,” “bureau of agriculture and forestry,” “commissioner,” “commissioners of agriculture,” and “commissioners for the island of Oahu.” (31 Stat. 155.)

SUPERINTENDENT OF PUBLIC WORKS

§ 3716. (Act April 30, 1900, c. 339, § 75.) Superintendent of public works; powers and duties.

There shall be a superintendent of public works, who shall have the powers and duties of the superintendent of public works and those of the powers and duties of the minister of the Interior which relate to streets and highways, harbor improvements, wharves, landings, waterworks, railways, electric light and power, telephone lines, fences, pounds, brands, weights and measures, fires and fireproof buildings, explosives, eminent domain, public works, markets, buildings, parks and cemeteries, and other grounds and lands now under the control and management of the minister of the interior and those of the pow-
ers and duties of the minister of finance and collector-general which relate to pilots and harbor masters under the laws of Hawaii, except as changed by this Act and subject to modification by the legislature. In said laws the word "legislature" shall be substituted for "councils" and the words "the circuit court" for "the Hawaiian Postal Savings Bank." (31 Stat. 155.)

SUPERINTENDENT OF PUBLIC INSTRUCTION

§ 3717. (Act April 30, 1900, c. 339, § 76, as amended, Act April 8, 1904, c. 948.) Superintendent of public instruction; powers and duties; labor statistics and reports; classification of industrial employees.

There shall be a superintendent of public instruction, who shall have the powers and perform the duties conferred upon and required of the minister of public instruction by the laws of Hawaii as amended by the Act, and subject to modification by the legislature.

It shall be the duty of the United States Commissioner of Labor to collect, assort, arrange, and present in reports in nineteen hundred and five, and every five years thereafter, statistical details relating to all departments of labor in the Territory of Hawaii, especially in relation to the commercial, industrial, social, educational, and sanitary condition of the laboring classes, and to all such other subjects as Congress may by law direct. The said Commissioner is especially charged to ascertain the highest, lowest, and average number of employees engaged in the various industries in the Territory, to be classified as to nativity, sex, hours of labor, and conditions of employment, and to report the same to Congress. (31 Stat. 155. 33 Stat. 164.)

The amendment to this section by Act April 8, 1904, c. 948, cited above, consisted chiefly in the requirement of reports, etc., by the United States Commissioner of Labor every five years instead of annually as required by the section as originally enacted.

The Commissioner of Labor was to be known as the Commissioner of Labor Statistics by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 3, ante, § 944.

AUDITOR AND DEPUTY AUDITOR

§ 3718. (Act April 30, 1900, c. 339, § 77.) Auditor and deputy auditor, powers and duties.

There shall be an auditor and deputy auditor, who shall have the powers and duties conferred upon and required of the auditor-general and deputy auditor-general, respectively, by act thirty-nine of the Session Laws, as amended by this Act, subject to modification by the legislature. In said act "officer" shall be substituted for "minister" where used without other designation. (31 Stat. 156.)

SURVEYOR

§ 3719. (Act April 30, 1900, c. 339, § 78.) Surveyor; powers and duties.

There shall be a surveyor, who shall have the powers and duties heretofore attached to the surveyor-general, except such as relate to the geodetic survey of the Hawaiian Islands. (31 Stat. 156.)

(1486)
HIGH SHERIFF

§ 3720. (Act April 30, 1900, c. 339, § 79.) High sheriff and deputies; powers and duties.

There shall be a high sheriff and deputies, who shall have the powers and duties of the marshal and deputies of the Republic of Hawaii under the laws of Hawaii, except as changed by this Act, and subject to modification by the legislature. (31 Stat. 156.)

APPOINTMENT, REMOVAL, TENURE, AND SALARIES OF OFFICERS

§ 3721. (Act April 30, 1900, c. 339, § 80, as amended, March 3, 1905, c. 1465, § 2.) Officers appointed by President; officers appointed by governor; terms; manner of appointment; salaries; qualifications; incumbents holding over; county and municipal officers not affected.

The President shall nominate and, by and with the advice and consent of the Senate, appoint the chief justice and justices of the supreme court, the judges of the circuit courts, who shall hold their respective offices for the term of four years, unless sooner removed by the President; and the governor shall nominate and, by and with the advice and consent of the Senate of the Territory of Hawaii, appoint the attorney-general, treasurer, commissioner of public lands, commissioner of agriculture and forestry, superintendent of public works, superintendent of public instruction, auditor, deputy auditor, surveyor, high sheriff, members of the board of health, commissioners of public instruction, board of prison inspectors, board of registration and inspectors of election, and any other boards of a public character that may be created by law; and he may make such appointments when the Senate is not in session by granting commissions, which shall, unless such appointments are confirmed, expire at the end of the next session of the Senate. He may, by and with the advice and consent of the Senate of the Territory of Hawaii, remove from office any of such officers. All such officers shall hold office for four years and until their successors are appointed and qualified, unless sooner removed, except the commissioners of public instruction and the members of said boards, whose terms of office shall be as provided by the laws of the Territory of Hawaii.

The manner of appointment and removal and the tenure of all other officers shall be as provided by law; and the governor may appoint or remove any officer whose appointment or removal is not otherwise provided for.

The salaries of all officers other than those appointed by the president shall be as provided by the legislature, but those of the chief justice and the justices of the supreme court and judges of the circuit courts shall not be diminished during their term of office.

All officers appointed under the provisions of this section shall be citizens of the Territory of Hawaii.

All persons holding office in the Hawaiian Islands at the time this Act takes effect shall continue to hold their respective offices (1487)
§ 3721. THE TERRITORIES AND INSULAR POSSESSIONS

until their successors are appointed and qualified, but not beyond
the end of the first session of the senate of the Territory of Hawaii
unless reappointed as herein provided.

Provided, however, That nothing in this section shall be con-
strued to conflict with the authority and powers conferred by sec-
tion fifty-six of this Act as herein amended. (31 Stat. 156. 33
Stat. 1035.)

The amendment of this section by Act March 3, 1905, c. 1465, § 2, cited
above, consisted in the addition to the section of the last proviso thereof, as
set forth here.

THE JUDICIARY

THE JUDICIAL POWER

§ 3722. (Act April 30, 1900, c. 339, § 81.) Courts; jurisdiction and
procedure continued.

The judicial power of the Territory shall be vested in one su-
preme court, circuit courts, and in such inferior courts as the leg-
islature may from time to time establish. And until the legislature
shall otherwise provide, the laws of Hawaii heretofore in force con-
cerning the several courts and their jurisdiction and procedure
shall continue in force except as herein otherwise provided. (31
Stat. 157.)

Sections 81–84 of this act were included in chapter IV thereof, relating to
the judiciary.

SUPREME COURT

§ 3723. (Act April 30, 1900, c. 339, § 82.) Supreme court; ap-
pointment and qualification of justices; absent or disqualified
justice.

The supreme court shall consist of a chief justice and two associate
justices, who shall be citizens of the Territory of Hawaii and shall
be appointed by the President of the United States, by and with
the advice and consent of the Senate of the United States, and may
be removed by the President: Provided, however, That in case of
the disqualification or absence of any justice thereof, in any cause
pending before the court, on the trial and determination of said
cause his place shall be filled as provided by law. (31 Stat. 157.)

LAWS CONTINUED IN FORCE

§ 3724. (Act April 30, 1900, c. 339, § 83.) Laws relating to ju-
dicial department and procedure continued; repeal of certain
jury laws; qualifications of jurors; grand juries.

The laws of Hawaii relative to the judicial department, including
civil and criminal procedure, except as amended by this Act, are
continued in force, subject to modification by Congress, or the
legislature. The provisions of said laws or any laws of the Re-
public of Hawaii which require juries to be composed of aliens or
foreigners only, or to be constituted by impaneling natives of Ha-
waiti only, in civil and criminal cases specified in said laws, are re-
pealed, and all juries shall hereafter be constituted without refer-
ence to the race or place of nativity of the jurors; but no person
who is not a male citizen of the United States and twenty-one
(1488)
years of age and who can not understandably speak, read, and write the English language shall be a qualified juror or grand juror in the Territory of Hawaii. No person shall be convicted in any criminal case except by unanimous verdict of the jury. No plaintiff or defendant in any suit or proceeding in a court of the Territory of Hawaii shall be entitled to a trial by a jury impaneled exclusively from persons of any race. Until otherwise provided by the legislature of the Territory, grand juries may be drawn in the manner provided by the Hawaiian statutes for drawing petty juries, and shall sit at such times as the circuit judges of the respective circuits shall direct; the number of grand jurors in each circuit shall be not less than thirteen, and the method of the presentation of cases to said grand jurors shall be prescribed by the supreme court of the Territory of Hawaii. The several circuit courts may subpoena witnesses to appear before the grand jury in like manner as they subpoena witnesses to appear before their respective courts. (31 Stat. 157.)

DISQUALIFICATION BY RELATIONSHIP, PECUNIARY INTEREST, OR PREVIOUS JUDGMENT

§ 3725. (Act April 30, 1900, c. 339, § 84, as amended, Act May 27, 1910, c. 258, § 6.) Disqualification by relationship, pecuniary interest, or previous judgment.

No person shall sit as a judge or juror in any case in which his relative by affinity or by consanguinity within the third degree is interested, either as a plaintiff or defendant, or in the issue of which the said judge or juror has, either directly or through such relative, any pecuniary interest; nor shall any person sit as a judge in any case in which he has been of counsel or on an appeal from any decision or judgment rendered by him, and the legislature of the Territory may add other causes of disqualification to those herein enumerated. (31 Stat. 157. 36 Stat. 447.)

The amendment of this section by Act May 27, 1910, c. 258, § 6, cited above, consisted chiefly in the insertion of the last clause thereof, beginning with the words "nor shall any person sit as judge," etc., to the end of the section as set forth here, in lieu of the last clause of the original section, which read as follows: "No judge shall sit on an appeal, or new trial, in any case, in which he may have given a previous judgment."

UNITED STATES OFFICERS

DELEGATE TO CONGRESS

§ 3726. (Act April 30, 1900, c. 339, § 85, as amended, Act June 28, 1906, c. 3582.) Delegate to Congress; election; powers; vacancy; amendment of election laws.

A Delegate to the House of Representatives of the United States, to serve during each Congress, shall be elected by the voters qualified to vote for members of the house of representatives of the legislature. Such Delegate shall possess the qualifications necessary for membership of the senate of the legislature of Hawaii. Such election shall be held on the first Tuesday after the first Monday in November of every even year and at such places as shall
§ 3726. THE TERRITORIES AND INSULAR POSSESSIONS

be designated by the secretary of the Territory. The ballot for Delegate shall be such as the legislature of Hawai'i may designate, and until provision is made by the Territorial legislature the ballot shall be of pink paper and shall be of the same general form as those used for the election of representatives to the legislature.

The method of certifying the names of candidates for place on this ballot and all the conduct of the election of a Delegate shall be in conformity to the general election laws of the Territory of Hawai'i.

The person having the greatest number of votes shall be declared by the governor duly elected, and a certificate shall be given accordingly.

Every such Delegate shall have a seat in the House of Representatives, with the right of debate, but not of voting. In case of a vacancy occurring in the office of Delegate, the governor of the Territory is directed to call a special election to fill such vacancy: Provided, however, That no vacancy shall be filled which occurs within five months of the expiration of a Congressional term.

The legislature of the Territory of Hawai'i shall have the right to alter or amend any part of the election laws of said Territory, including those providing for an election of Delegate to Congress, and its action shall be the law, with full, binding force, until altered, amended, or repealed by Congress. (31 Stat. 158. 34 Stat. 550.)

This section, as originally enacted, contained the provisions in the first paragraph thereof, as set forth here, followed by the words, "The times, places, and manner of holding elections shall be as fixed by law," and the provisions of the fourth paragraph and the first sentence of the fifth paragraph, as set forth here. It was amended by inserting, instead of the words quoted above, the second and third paragraphs set forth here, and adding the further provisions to the fifth paragraph and the sixth paragraph, making the section read as set forth here, by Act June 28, 1906, c. 3582, last cited above.

Sections 85-88 of this act were included in chapter 5 thereof, "United States Officers." Section 86, as amended, is set forth post, § 3727. Section 87, constituting the Territory an internal revenue district, is set forth post, § 5415. Section 88 provided that the Territory of Hawaii should comprise a customs district of the United States, with ports of entry and delivery at Honolulu, Hilo, Makukaua, and Kahului. It was superseded by the establishment of the customs district of Hawaii by the Reorganization of the Customs Service pursuant to the provisions of Act Aug. 24, 1912, c. 355, post, § 5327.

FEDERAL COURT

§ 3727. (Act April 30, 1900, c. 339, § 86, as amended, Act March 3, 1909, c. 269.) District court; two judges; appointment of judges, district attorney, and marshal; jurisdiction; powers of judges, district attorney, and marshal; writs of error and appeals; jury trial; terms; clerk; reporter; writs of error and appeals to United States Supreme Court from Supreme Court of territory.

There shall be established in the said Territory a district court, to consist of two judges, who shall reside therein and be called district judges, and who shall each receive an annual salary of six thousand dollars. The said court while in session shall be pre-
sided over by only one of said judges. The two judges shall from
time to time, either by order or rules of court, prescribe at what
times and in what class of cases each of them shall preside. The
said two judges shall have the same powers in all matters coming
before said court.

The President of the United States, by and with the advice and
consent of the Senate of the United States, shall appoint two dis-

trick judges, a district attorney, and a marshal of the United States
for the said district, and said judges, attorney, and marshal shall
hold office for six years unless sooner removed by the President.

The said court shall have, in addition to the ordinary jurisdic-
tion of district courts of the United States, jurisdiction of all cas-
es cognizable in a circuit court of the United States, and shall
proceed therein in the same manner as a circuit court; and the said
judges, district attorney, and marshal shall have and exercise in the
Territory of Hawaii all the powers conferred by the laws of the
United States upon the judges, district attorneys, and marshals of
district and circuit courts of the United States.

* * * And the laws of the United States relating to juries and jury
trials shall be applicable to said district court. The laws of the
United States relating to appeals, writs of error, removal of causes,
and other matters and proceedings as between the courts of the
United States and the courts of the several States shall govern in
such matters and proceedings as between the courts of the United
States and the courts of the Territory of Hawaii. Regular terms
of said court shall be held in Honolulu on the second Monday in
April and October, and special terms may be held at such times
and places in said district as the said judges may deem expedient.
The said district judges shall appoint a clerk of said court at a
salary of three thousand dollars per annum and shall appoint a re-
porter of said court at a salary of one thousand two hundred dol-
ars per annum. (31 Stat. 158. 35 Stat. 838.)

The amendment to this section by Act March 3, 1909, c. 369, cited above,
consisted chiefly in the provisions for two judges instead of one and for the division
of the work between them and in the omission of the provision, in the original
section, for a regular term of court each year at Hilo.

The circuit courts of the United States were abolished and their powers and
duties conferred upon the United States district courts by Jud. Code, §§ 289–
291, ante, §§ 1205–1209.

The portion of the section omitted here provided for writs of error and ap-
peals from the district court to the circuit court of appeals for the Ninth Ju-
dicial circuit in the same manner as appeals were allowed from circuit courts,
and for appeals and writs of error from said district court to the Supreme
Court of the United States in cases where they were allowed from the district
and circuit courts of the United States to the Supreme Court. These provi-
sions were superseded by provisions for appeals and writs of error from the
district court of Hawaii contained in Jud. Code, §§ 128, 288, ante, §§ 1120,
1215.

This section was amended by Act March 3, 1905, c. 1465, § 3, 33 Stat. 1035,
by adding at the end thereof a provision for appeals and writs of error from
the territorial supreme court to the Supreme Court of the United States where
the amount involved, exclusive of costs, exceeded $5,000, and this provision was
repealed in the section as amended by Act March 3, 1909, c. 369, cited above.
It was superseded by provisions for such appeals and writs of error contained
in Jud. Code, § 246, ante, § 1223.

(1491)
§ 3728. (Act April 30, 1900, c. 339, § 89.) Wharves and revenue therefrom to belong to Territory; no tolls to be charged for use thereof by the United States.

Until further provision is made by Congress the wharves and landings constructed or controlled by the Republic of Hawaii on any seacoast, bay, roadstead, or harbor shall remain under the control of the government of the Territory of Hawaii, which shall receive and enjoy all revenues derived therefrom on condition that said property shall be kept in good condition for the use and convenience of commerce, but no tolls or charges shall be made by the government of the Territory of Hawaii for the use of any such property by the United States, or by any vessel of war, tug, revenue cutter, or other boat or transport in the service of the United States. (31 Stat. 159.)

Sections 89—104 of this act were included in chapter 6, “miscellaneous.” Sections 91, 92, 95—99, 102, are set forth post, §§ 3729, 3730—3735, 3739.

Section 90 provided for the cancellation of the Hawaiian postage stamps then on hand and for the exchange of United States stamps for Hawaiian stamps, sold but not used, if presented for exchange within six months after the act should take effect.

Section 93 provided that imports from Hawaii into the United States of dutiable articles imported into the islands after July 7, 1898, and before this act took effect, should pay the regular duties.

Section 94 required the United States Commissioner of Fish and Fisheries to examine into the subject of fisheries and fishing laws in Hawaii and report to the President, recommending such changes as he saw fit.

Section 103 required the money in the Hawaiian Postal Savings Bank, unpaid to depositors on July 1, 1901, and any assets of the bank, to be turned over to the Treasurer of the United States.

Section 104 provided that the act should take effect 45 days after its approval, except section 52, relating to appropriations, which should become effective at once.

All of these sections were temporary merely, and are omitted.

Section 100 provided that, for the purposes of naturalization, residence in Hawaii for five years prior to the taking effect of the act should be deemed equivalent to residence in the United States for that length of time, and such persons should not be required to file a declaration of intention. It is set forth post, § 4331.

Section 101 provided for the issuance of certificates of residence to Chinese in Hawaii and prohibited their coming from Hawaii to the United States. It is set forth post, § 4336.

§ 3729. (Act April 30, 1900, c. 339, § 91, as amended, Act May 27, 1910, c. 258, § 7.) Public property ceded to United States to remain in possession and control of Territory; title to certain property may be transferred to Territory and to subdivisions thereof.

Except as otherwise provided, the public property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation, approved July seventh, eighteen hundred and ninety-eight, shall be and remain in the possession, use, and control of the government of the Territory of Hawaii, and (1492)
shall be maintained, managed, and cared for by it, at its own expense, until otherwise provided for by Congress, or taken for the uses and purposes of the United States by direction of the President or of the governor of Hawaii. And any such public property so taken for the uses and purposes of the United States may be restored to its previous status by direction of the President; and the title to any such public property in the possession and use of the Territory for the purposes of water, sewer, electric, and other public works, penal, charitable, scientific, and educational institutions, cemeteries, hospitals, parks, highways, wharves, landings, harbor improvements, public buildings, or other public purposes, or required for any such purposes, may be transferred to the Territory by direction of the President, and the title to any property so transferred to the Territory may thereafter be transferred to any city, county, or other political subdivision thereof by direction of the governor when thereunto authorized by the legislature. (31 Stat. 159. 36 Stat. 447.)

This section, as originally enacted, contained only the provisions following the words "except as otherwise provided," to the end of the first sentence of the section, with a further provision, as follows:

"And all moneys in the Hawaiian treasury, and all the revenues and other property acquired by the Republic of Hawaii since said cession shall be and remain the property of the Territory of Hawaii."

It was amended by inserting said words, "Except as otherwise provided," by omitting the further provision quoted above, and by adding the further provisions beginning with the words, "And any such public property so taken," etc., to the end of the section as set forth here, by Act May 27, 1910, c. 358. § 7, last cited above.

The joint resolution of annexation, mentioned in this section, and which provided that the ownership of all public, government, or crown lands, public buildings or edifices, ports, harbors, military equipment, and all other public property be vested in the United States, was Res. July 7, 1898, No. 66, 30 Stat. 750.

Provisions of said resolution of annexation relating to the disposition of the public lands and of the revenue therefrom are set forth post, § 3736. Provisions relating to the title, etc., to the crown land were made by section 99 of this act, post, § 3755. Provisions relating to the disposition of personal and moveable property ceded to the United States, were made by Act May 28, 1906, c. 2561, post, § 3747.

§ 3730. (Act April 30, 1900, c. 339, § 92, as amended, Act May 27, 1910, c. 258, § 8.) Salaries of certain officers paid by United States; amounts.

The following officers shall receive the following annual salaries to be paid by the United States: The governor, seven thousand dollars; the secretary of the Territory, four thousand dollars; the chief justice of the supreme court of the Territory, six thousand dollars; the associate justices of the supreme court, five thousand dollars each; the judges of the circuit courts, four thousand dollars each; the United States district attorney, four thousand dollars, the United States marshal, three thousand dollars. And the governor shall receive annually, in addition to his salary, the sum of five hundred dollars for stationery, postage, and incalculables; also
his traveling expenses while absent from the capital on official business, and the sum of two thousand dollars annually for his private secretary. (31 Stat. 159. 36 Stat. 448.)

The amendment of this section by Act May 27, 1910, c. 268, § 8, cited above, consisted chiefly in increasing the amounts of all salaries except those paid to the associate justices of the supreme court, to the amounts set forth here.

**REPEAL OF LAWS CONFERRING EXCLUSIVE FISHING RIGHTS**

§ 3731. (Act April 30, 1900, c. 339, § 95.) Laws conferring exclusive fishing rights repealed; fisheries in sea waters free to United States citizens; vested rights.

All laws of the Republic of Hawaii which confer exclusive fishing rights upon any person or persons are hereby repealed, and all fisheries in the sea waters of the Territory of Hawaii not included in any fish pond or artificial inclosure shall be free to all citizens of the United States, subject, however, to vested rights; but no such vested right shall be valid after three years from the taking effect of this Act unless established as hereinafter provided. (31 Stat. 160.)

**PROCEEDINGS FOR OPENING FISHERIES TO CITIZENS**

§ 3732. (Act April 30, 1900, c. 339, § 96.) Proceedings to establish private fishing right; condemnation.

Any person who claims a private right to any such fishery shall, within two years after the taking effect of this Act, file his petition in a circuit court of the Territory of Hawaii, setting forth his claim to such fishing right, service of which petition shall be made upon the attorney-general, who shall conduct the case for the Territory, and such case shall be conducted as an ordinary action at law.

That if such fishing right be established, the attorney-general of the Territory of Hawaii may proceed, in such manner as may be provided by law for the condemnation of property for public use, to condemn such private right of fishing to the use of the citizens of the United States upon making just compensation, which compensation, when lawfully ascertained, shall be paid out of any money in the treasury of the Territory of Hawaii not otherwise appropriated. (31 Stat. 160.)

**QUARANTINE**

§ 3733. (Act April 30, 1900, c. 339, § 97.) Quarantine stations; quarantine regulations under control of United States; station at Honolulu transferred to United States Marine-Hospital Service; health laws under jurisdiction of territorial government subject to United States quarantine laws.

Quarantine stations shall be established at such places in the Territory of Hawaii as the Supervising Surgeon-General of the Marine-Hospital Service of the United States shall direct, and the quarantine regulations for said islands relating to the importation of diseases from other countries shall be under the control of the Government of the United States. The quarantine station and grounds at the harbor of Honolulu, together with all the public property be-
longing to that service, shall be transferred to the Marine-Hospital Service of the United States, and said quarantine grounds shall continue to be so used and employed until the station is changed to other grounds which may be selected by order of the Secretary of the Treasury.

The health laws of the government of Hawaii relating to the harbor of Honolulu and other harbors and inlets from the sea and to the internal control of the health of the islands shall remain in the jurisdiction of the government of the Territory of Hawaii, subject to the quarantine laws and regulations of the United States. (31 Stat. 160.)

A hospital station and laboratory of the Public Health and Marine-Hospital Service of the United States for the study of the methods of transmission, cause, and treatment of leprosy, was established by Act March 3, 1905, c. 1443, 33 Stat. 1009.

§ 3734. (Act April 30, 1900, c. 339, § 98.) Certain vessels carrying Hawaiian register entitled to American register; trade between islands and United States subject to coasting trade laws.

All vessels carrying Hawaiian registers on the twelfth day of August, eighteen hundred and ninety-eight, and which were owned bona fide by citizens of the United States, or the citizens of Hawaii, together with the following-named vessels claiming Hawaiian register, Star of France, Euterpe, Star of Russia, Falls of Clyde, and Wilscott, shall be entitled to be registered as American vessels, with the benefits and privileges appertaining thereto, and the coasting trade between the islands aforesaid and any other portion of the United States, shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts. (31 Stat. 161.)

§ 3735. (Act April 30, 1900, c. 339, § 99.) Crown land declared the property of Hawaiian government, free from trusts, etc.

The portion of the public domain heretofore known as Crown land is hereby declared to have been, on the twelfth day of August, eighteen hundred and ninety-eight, and prior thereto, the property of the Hawaiian government, and to be free and clear from any trust of or concerning the same, and from all claim of any nature whatsoever, upon the rents, issues, and profits thereof. It shall be subject to alienation and other uses as may be provided by law. (31 Stat. 161.)

§ 3736. (Res. July 7, 1898, No. 55.) Public lands; management and disposition; use of revenue or proceeds therefrom.

The existing laws of the United States relative to public lands shall not apply to such lands in the Hawaiian Islands; but the Congress of the United States shall enact special laws for their management and disposition: Provided, That all revenue from or proceeds of the same, except as regards such part thereof as may be used or occupied for the civil, military, or naval purposes of the United States, or may be assigned for the use of the local govern-

(1495)
ment, shall be used solely for the benefit of the inhabitants of the Hawaiian Islands for educational and other public purposes. (30 Stat. 750.)

These provisions were part of the joint resolution for the annexation of the Hawaiian Islands, cited above, following the acceptance of the cession thereof, including all public, government, or crown lands.

§ 3737. (Act May 26, 1906, c. 2561.) Disposition of personal or movable property ceded to the United States; previous sales and leases confirmed.

All personal and movable property ceded and transferred to the United States by the Republic of Hawaii under the joint resolution of annexation approved July seventh, eighteen hundred and ninety-eight, may be sold, leased, or otherwise disposed of in such manner as may be provided by the laws of the Territory of Hawaii: Provided, That all sales, leases, or other disposals of such property heretofore made by said Territory, under the authority of such laws, are hereby ratified and confirmed, and all moneys or revenues derived from sales or disposals heretofore made, or made under authority of this Act, shall remain the property of said Territory. (34 Stat. 204.)

This was an act entitled "An act to provide for the disposition of certain property in the Territory of Hawaii."

Previous provisions relating to the possession, etc., of the property ceded to the United States, were made by Act April 30, 1900, c. 339, § 91, ante, § 3729.


The public debt of the Republic of Hawaii, lawfully existing at the date of the passage of this joint resolution, including the amounts due to depositors in the Hawaiian Postal Savings Bank, is hereby assumed by the Government of the United States; but the liability of the United States in this regard shall in no case exceed four million dollars. (30 Stat. 751.)

This was a provision of the resolution of annexation, cited above.

A further provision of said resolution, that so long as the existing government and commercial relations of Hawaii continued, that government should pay the interest on the debt, is omitted, as temporary merely.

Provisions for the payment of the depositors in the Hawaiian Postal Savings Bank were made by Act April 30, 1900, c. 339, § 102, 31 Stat. 181.

§ 3739. (Act April 30, 1900, c. 339, § 102.) Postal savings bank laws abolished.

The laws of Hawaii relating to the establishment and conduct of any postal savings bank or institution are hereby abolished. (31 Stat. 161.)

Further provisions of this section authorized the Secretary of the Treasury to pay the amounts on deposit in the postal savings bank to the persons entitled thereto, appropriated the money necessary, and provided that the demands should be certified to be correct by the chief executive of Hawaii, sealed with the territorial seal, countersigned by the secretary, and approved by the Secretary of the Interior, and that after such demands were so paid neither the United States nor Hawaii should be liable any further in respect thereto. Section 103 of this act provided that any money of the postal savings bank unpaid to persons entitled thereto on July 1, 1901, and any assets of
the bank, should be turned over to the Treasurer of the United States. These provisions were temporary merely, and are therefore omitted.

The governor was authorized to certify demands for deposits in the postal savings bank of a deceased person for whom there was no executor or administrator as being due to those entitled to inherit the personal estate under the laws of Hawaii, claims for deposits in the bank not presented for certification within two years of the passage of the act were barred, and the balance left after all claims were paid was to be applied to the reduction of the public debt of Hawaii, by Act May 19, 1908, c. 175, 35 Stat. 165.

§ 3740. (Act Jan. 14, 1903, c. 186, § 1.) Hawaiian silver coins; receivable for dues to government of Territory of Hawaii and of United States.

The silver coins that were coined under the laws of Hawaii, when the same are not mutilated or abraded below the standard of circulation, shall be received at the par of their face value in payment of all dues to the government of the Territory of Hawaii and of the United States, and the same shall not again be put into circulation, but they shall be recoined in the mints as United States coins. (32 Stat. 770.)

This section and the six sections next following were part of an act entitled "An act relating to Hawaiian silver coinage and silver certificates," cited above.

Section 8 of said act made an appropriation for the expenses of transporting the coins to and from the mint. It is omitted as temporary merely.


When such coins have been received by either Government they shall be transmitted to the mint at San Francisco, in sums of not less than five hundred dollars, to be recoined into subsidiary silver coins of the United States, the expense of transportation to be paid by the United States. (32 Stat. 770.)


Any collector of customs or of internal revenue of the United States in the Hawaiian Islands shall, if he is so directed by the Secretary of the Treasury, exchange standard silver coins of the United States that are in his custody as such collector with the government of Hawaii, or with any person desiring to make such exchange, for coins of the government of Hawaii, at their face value when the same are not abraded below the lawful standard of circulation, and the Treasurer of the United States, under the direction of the Secretary of the Treasury, is authorized to deposit such silver coins of the United States as shall be necessary with the collector of customs or of internal revenue at Honolulu or at any Government depository for the purpose of making such exchange under such regulations as he may prescribe. (32 Stat. 771.)

§ 3743. (Act Jan. 14, 1903, c. 186, § 4.) Recoinage of mutilated or abraded coins; payment therefor.

Any silver coins struck by the government of Hawaii that are mutilated or abraded below such standard may be presented for recoinage at any mint in the United States by the person owning
§ 3744. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

the same, or his or her agents, in sums of not less than fifty dollars, and such owner shall be paid for such coins by the superintendent of the mint the bullion value per troy ounce of the fine silver they contain in standard silver coin of the United States, and such bullion shall be coined into subsidiary coinage of the United States. (32 Stat. 771.)


Silver coins heretofore struck by the government of Hawaii shall continue to be legal tender for debts in the Territory of Hawaii, in accordance with the laws of the Republic of Hawaii, until the first day of January, nineteen hundred and four, and not afterwards. (32 Stat. 771.)


Any silver certificates heretofore issued by the government of the Hawaiian Islands, intended to be circulated as money, shall be redeemed by the Territorial government of Hawaii on or before the first day of January, nineteen hundred and five, and after said date it shall be unlawful to circulate the same as money. (32 Stat. 771.)

§ 3746. (Act Jan. 14, 1903, c. 186, § 7.) United States not bound to redeem Hawaiian silver certificates or silver coin, except as stated in act.

Nothing in this Act contained shall bind the United States to redeem any silver certificates issued by the government of Hawaii, or any silver coin issued by such government, except in the manner and upon the conditions stated in this Act for the recoining of Hawaiian silver. (32 Stat. 771.)

CHAPTER THREE C

Porto Rico

Sec. 3747. Territory to which act applies and included under name Porto Rico.

3748. Duties on foreign imports into Porto Rico.

3749. Duties on commerce between Porto Rico and the United States; tax on manufactured articles equal to internal revenue tax; free trade after establishment of local taxation in Porto Rico.

3750. Taxes on articles of Porto Rican manufacture coming into United States to be paid by affixing stamps; deputy collector at San Juan, Porto Rico; issuance of stamps; duties, compensation, and expenses of deputy collector.

3751. Bond of deputy collector for Porto Rico.

3752. Duties collected to constitute fund for benefit of Porto Rico; Secretary of Treasury to establish ports of entry and make rules and regulations; duties paid to civil government as soon as organized.

GENERAL PROVISIONS

3753. Capital.

3754. Former Spanish subjects residing in islands and their children to
Ch. 30) THE TERRITORIES AND INSULAR POSSESSIONS

Sec. 3772. Commissioner of the interior; powers and duties.
3773. Commissioner of education; powers and duties.
3774. Other members of council; duties; compensation.
3775. All reports to be made to an executive department of the United States to be designated by the President; all matters relating to government of Porto Rico within jurisdiction of that department.

HOUSE OF DELEGATES

3776. Legislative assembly; executive council and house of delegates; number of delegates.
3777. Districts for election of delegates.

ELECTION OF DELEGATES

3778. First election of delegates; term of office; qualifications of voters; organization of house; length of session; enacting clause of laws; compensation of members; subsequent elections.
3779. Powers of house of delegates; qualifications of members.
3780. Passage of bills; approval or veto by governor; adoption over veto; failure of governor to approve or veto; power of Congress to annul laws; failure to make necessary appropriations for the support of the government.
3781. Scope of legislative power; grants of public and quasi-public franchises, etc.
3782. Franchises to be approved by the President.
3783. Special provisions in franchises, etc.; real estate holdings of corporations restricted.

THE GOVERNOR

3785. The governor, appointment; term; residence and office; powers; reports; duties delegated by the President.

THE EXECUTIVE COUNCIL

3786. Executive council; members; appointment; term; powers and duties of council.
3787. Secretary; duties.
3788. Secretary to act as governor in case of death, removal, etc., of governor.
3789. Attorney-general; powers and duties.
3770. Treasurer; powers and duties.
3771. Auditor; duties.

3755. Laws of Porto Rico continued in force; exceptions; marriage of priests, etc.; adultery.
3756. Nationalisation of Porto Rican vessels; coasting-trade laws to govern trade with Porto Rico.
3757. Quarantine stations and regulations.
3758. Redemption of Porto Rican coins; rate of exchange; recoginase; not legal tender for future debts; regulations; payment of existing debts.
3759. Expenses of government and internal improvements to be paid out of Porto Rican revenues; exceptions.
3760. Property acquired from Spain under control of government of Porto Rico; harbor areas and navigable waters excepted.
3761. Reservation of certain public lands and buildings for public purposes of the United States; other public lands, etc., granted to Porto Rico; release of claims by Porto Rico to lands reserved by United States; private rights not affected.
3762. Laws of United States extended to Porto Rico; exceptions.
3763. Power to amend or repeal any law continued in force granted to legislature.
3764. Style of judicial process; oath of officials.

(1499)
§ 3747. THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

Sec. 3794. Salaries of municipal officers and other municipal expenses payable from municipal revenues.

Sec. 3795. Export duties prohibited; taxes and license fees; public indebtedness; limitation.

Sec. 3796. Resident commissioner; election; salary; qualifications.

Sec. 3797. Resident commissioner; traveling expenses; commencement of term of office.

Sec. 3798. Manner of payment of salary and expenses of resident commissioner.

Sec. 3799. Construction of wharves, etc., authorised.

Sec. 3800. Meaning of word "person" as used in act.

Sec. 3801. Restrictions upon powers; time to be limited; reservation of right to purchase; subject to amendment or repeal; wharfage fees, etc., subject to control; dredging; time for beginning and completion of work; extension; accounts of expenditure; subletting, sale, etc., without consent or to competitor prohibited; prior right to vessels owned by United States; further restrictions may be imposed by Secretary of War.

Sec. 3802. Applicant must be owner or lessee of approaches to shore end; application accompanied by plans and specifications; approval by Chief of Engineers.

Sec. 3803. Existing rights not affected.

The island of Porto Rico and the adjacent islands ceded to the United States by Spain by the Treaty of Dec. 10, 1898, 50 Stat. 1754, were included under the name Porto Rico, and a civil government therefor was provided, by Act April 12, 1900, c. 191, 31 Stat. 77.

This chapter includes the provisions of said Porto Rico Government Act and of subsequent acts amendatory thereof or otherwise relating to the same subject, general, and permanent in their nature, which remain in force and applicable to said islands.

§ 3747. (Act April 12, 1900, c. 191, § 1.) Territory to which act applies and included under name Porto Rico.

The provisions of this Act shall apply to the island of Porto Rico and to the adjacent islands and waters of the islands lying east of the seventy-fourth meridian of longitude west of Greenwich, which were ceded to the United States by the Government of Spain by treaty entered into in the tenth day of December, eighteen hundred and ninety-eight; and the name Porto Rico, as
used in this Act, shall be held to include not only the island of that name, but all the adjacent islands as aforesaid. (31 Stat. 77.)

This was the first section of an act entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," cited above.

Sections 2-4, 6-39 of said act are set forth post, §§ 3748, 3749, 3752-3760, 3762-3774; 3776-3781, 3784, 3785, 3791, 3792, 3794-3796.

Section 5 subjected goods previously imported from Porto Rico and not yet entered, or under bond, to the duties imposed by that act and no others, and provided that when duties were based upon weight, they should be levied and collected upon the weight at time of entry.

Section 40 created a commission to compile and revise the laws of Porto Rico and to frame and report necessary legislation, and required a final report from said commission on or before one year from the passage of the act.

Section 14 provide that the act should take effect and be in force from and after May 1, 1900.

These sections were temporary merely in their nature, and are omitted.

Provisions relating to the Porto Rico regiment of infantry were made by Act Feb. 2, 1901, c. 192, § 37, Act March 2, 1903, c. 975, Act April 23, 1904, c. 1465, Act May 11, 1908, c. 163, and Act May 27, 1908, c. 201, ante, §§ 1745-1753.

Provisions authorizing acknowledgment of deeds affecting land in the District of Columbia or any Territory of the United States, before any notary public in Porto Rico, the certificate of the notary to be accompanied by a certificate of the attorney-general of Porto Rico that the notary was the officer he purported to be, were made by Act March 22, 1902, c. 273, ante, § 3260.

§ 3748. (Act April 12, 1900, c. 191, § 2.) Duties on foreign imports into Porto Rico.

On and after the passage of this Act the same tariffs, customs, and duties shall be levied, collected, and paid upon all articles imported into Porto Rico from ports other than those of the United States which are required by law to be collected upon articles imported into the United States from foreign countries: Provided, That on all coffee in the bean or ground imported into Porto Rico there shall be levied and collected a duty of five cents per pound, any law or part of law to the contrary notwithstanding: And provided further, That all Spanish scientific, literary, and artistic works, not subversive of public order in Porto Rico, shall be admitted free of duty into Porto Rico for a period of ten years, reckoning from the eleventh day of April, eighteen hundred and ninety-nine, as provided in said treaty of peace between the United States and Spain: And provided further, That all books and pamphlets printed in the English language shall be admitted into Porto Rico free of duty when imported from the United States. (31 Stat. 77.)

§ 3749. (Act April 12, 1900, c. 191, § 3.) Duties on commerce between Porto Rico and the United States; tax on manufactured articles equal to internal revenue tax; free trade after establishment of local taxation in Porto Rico.

On and after the passage of this act all merchandise coming into the United States from Porto Rico and coming into Porto Rico from the United States shall be entered at the several ports of entry upon payment of fifteen per centum of the duties which are required to be levied, collected, and paid upon like articles of mer-
chandise imported from foreign countries; and in addition thereto
upon articles of merchandise of Porto Rican manufacture coming
into the United States and withdrawn for consumption or sale up-
on payment of a tax equal to the internal-revenue tax imposed in
the United States upon the like articles of merchandise of domestic
manufacture; such tax to be paid by internal-revenue stamp or
stamps to be purchased and provided by the Commissioner of In-
ternal Revenue and to be procured from the collector of internal
revenue at or most convenient to the port of entry of said mer-
chandise in the United States, and to be affixed under such reg-
ulations as the Commissioner of Internal Revenue, with the ap-
proval of the Secretary of the Treasury, shall prescribe; and on all
articles of merchandise of United States manufacture coming into
Porto Rico in addition to the duty above provided upon payment
of a tax equal in rate and amount to the internal-revenue tax im-
posed in Porto Rico upon the like articles of Porto Rican manu-
facture: Provided, That on and after the date when this Act shall
take effect, all merchandise and articles, except coffee, not dutiable
under the tariff laws of the United States, and all merchandise and
articles entered in Porto Rico free of duty under orders heretofore
made by the Secretary of War, shall be admitted into the several
ports thereof, when imported from the United States, free of duty,
all laws or parts of laws to the contrary notwithstanding; and
whenever the legislative assembly of Porto Rico shall have en-
acted and put into operation a system of local taxation to meet the
necessities of the government of Porto Rico, by this Act estab-
lished, and shall by resolution duly passed so notify the President,
he shall make proclamation thereof, and thereupon all tariff duties
on merchandise and articles going into Porto Rico from the United
States or coming into the United States from Porto Rico shall
cease, and from and after such date all such merchandise and ar-
ticles shall be entered at the several ports of entry free of duty;
and in no event shall any duties be collected after the first day of
March, nineteen hundred and two, on merchandise and articles
going into Porto Rico from the United States or coming into the
United States from Porto Rico. (31 Stat. 77.)

The payment of the internal revenue tax imposed by this section upon
Porto Rican manufactures by affixing to such articles before shipment the
proper internal revenue stamp, and the appointment of a deputy collector at
San Juan, Porto Rico, to carry such provisions into effect, were authorised by
Act June 29, 1906, c. 3613, post, §§ 3750, 3751.

§ 3750. (Act June 29, 1906, c. 3613, § 1.) Taxes on articles of
Porto Rican manufacture coming into United States to be paid
by affixing stamps; deputy collector at San Juan, Porto Rico;
issuance of stamps; duties, compensation, and expenses of
deputy collector.

All United States internal-revenue taxes now imposed by law on
articles of Porto Rican manufacture coming into the United States
for consumption or sale may hereafter be paid by affixing to such
articles before shipment thereof a proper United States internal-
revenue stamp denoting such payment, and for the purpose of carrying into effect the provisions of this Act the Secretary of the Treasury is authorized to grant to such collector of internal revenue as may be recommended by the Commissioner of Internal Revenue, and approved by the Secretary, an allowance for the salary and expenses of a deputy collector of internal revenue, to be stationed at San Juan, Porto Rico, and the appointment of this deputy to be approved by the Secretary.

The collector will place in the hands of such deputy all stamps necessary for the payment of the proper tax on articles produced in Porto Rico and shipped to the United States, and the said deputy, upon proper payment made for said stamps, shall issue them to manufacturers in Porto Rico. All such stamps so issued or transferred to said deputy collector shall be charged to the collector and be accounted for by him as in the case of other tax-paid stamps.

The deputy collector assigned to this duty shall perform such other work in connection with the inspection and stamping of such articles, and shall make such returns as the Commissioner of Internal Revenue may, by regulations approved by the Secretary of the Treasury, direct, and all provisions of existing law relative to the appointment, duties, and compensation of deputy collectors of internal revenue, including office rent and other necessary expenses, shall, so far as applicable, apply to the deputy collector of internal revenue assigned to duty under the provisions of this Act. (34 Stat. 620.)

This section and the section next following were an act to provide means for the sale of internal-revenue stamps in Porto Rico, cited above.

Internal revenue taxes upon articles of Porto Rican manufacture imported into the United States, equal to the tax upon like articles of domestic manufacture, were imposed by Act April 12, 1900, c. 191, § 3, ante, § 3749.


Before entering upon the duties of his office such deputy collector shall execute a bond, payable to the collector of internal revenue appointing him, in such amount and with such sureties as he may determine. (34 Stat. 621.)

§ 3752. (Act April 12, 1900, c. 191, § 4.) Duties collected to constitute fund for benefit of Porto Rico; Secretary of Treasury to establish ports of entry and make rules and regulations; duties paid to civil government as soon as organized.

The duties and taxes collected in Porto Rico in pursuance of this Act, less the cost of collecting the same, and the gross amount of all collections of duties and taxes in the United States upon articles of merchandise coming from Porto Rico, shall not be covered into the general fund of the Treasury, but shall be held as a separate fund, and shall be placed at the disposal of the President to be used for the government and benefit of Porto Rico until the
government of Porto Rico herein provided for shall have been organized, when all moneys theretofore collected under the provisions hereof, then unexpended, shall be transferred to the local treasury of Porto Rico, and the Secretary of the Treasury shall designate the several ports and subports of entry in Porto Rico and shall make such rules and regulations and appoint such agents as may be necessary to collect the duties and taxes authorized to be levied, collected, and paid in Porto Rico by the provisions of this Act, and he shall fix the compensation and provide for the payment thereof of all such officers, agents, and assistants as he may find it necessary to employ to carry out the provisions hereof: Provided, however, That as soon as a civil government for Porto Rico shall have been organized in accordance with the provisions of this Act and notice thereof shall have been given to the President he shall make proclamation thereof, and thereafter all collections of duties and taxes in Porto Rico under the provisions of this Act shall be paid into the treasury of Porto Rico, to be expended as required by law for the government and benefit thereof instead of being paid into the Treasury of the United States. (31 Stat. 78.)

The amount of customs revenue received by the United States on importations from Porto Rico since its evacuation by the Spanish forces together with all that should thereafter be collected under the existing law were placed at the disposal of the President to be used for governmental and public purposes in Porto Rico, by Act March 24, 1900, c. 81, 31 Stat. 61.

GENERAL PROVISIONS

§ 3753. (Act April 12, 1900, c. 191, § 6.) Capital.

The capital of Porto Rico shall be at the city of San Juan and the seat of government shall be maintained there. (31 Stat. 79.)

§ 3754. (Act April 12, 1900, c. 191, § 7.) Former Spanish subjects residing in islands and their children to be citizens of Porto Rico; exceptions; citizens of Porto Rico and of United States residing therein to constitute body politic under name of the People of Porto Rico.

All inhabitants continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in Porto Rico, and their children born subsequent thereto, shall be deemed and held to be citizens of Porto Rico, and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain on or before the eleventh day of April, nineteen hundred, in accordance with the provisions of the treaty of peace between the United States and Spain entered into on the eleventh day of April, eighteen hundred and ninety-nine; and they, together with such citizens of the United States as may reside in Porto Rico, shall constitute a body politic under the name of The People of Porto Rico, with governmental powers as hereinafter conferred and with power to sue and be sued as such. (31 Stat. 79.)

(1504)
§ 3755. (Act April 12, 1900, c. 191, § 8.) Laws of Porto Rico continued in force; exceptions; marriage of priests, etc.; adultery.

The laws and ordinances of Porto Rico now in force shall continue in full force and effect, except as altered, amended, or modified hereinafter, or as altered or modified by military orders and decrees in force when this Act shall take effect, and so far as the same are not inconsistent or in conflict with the statutory laws of the United States not locally inapplicable, or the provisions hereof, until altered, amended, or repealed by the legislative authority hereinafter provided for Porto Rico or by Act of Congress of the United States: Provided, That so much of the law which was in force at the time of cession, April eleventh, eighteen hundred and ninety-nine, forbidding the marriage of priests, ministers, or followers of any faith because of vows they may have taken, being paragraph four, article eighty-three, chapter three, civil code, and which was continued by the order of the secretary of justice of Porto Rico, dated March seventeenth, eighteen hundred and ninety-nine, and promulgated by Major-General Guy V. Henry, United States Volunteers, is hereby repealed and annulled, and all persons lawfully married in Porto Rico shall have all the rights and remedies conferred by law upon parties to either civil or religious marriages: And provided further, That paragraph one, article one hundred and five, section four, divorce, civil code, and paragraph two, section nineteen, of the order of the minister of justice of Porto Rico, dated March seventeenth, eighteen hundred and ninety-nine, and promulgated by Major-General Guy V. Henry, United States Volunteers, be, and the same hereby are, so amended as to read: “Adultery on the part of either the husband or the wife.” (31 Stat. 79.)

§ 3756. (Act April 12, 1900, c. 191, § 9.) Nationalization of Porto Rican vessels; coasting-trade laws to govern trade with Porto Rico.

The Commissioner of Navigation shall make such regulations, subject to the approval of the Secretary of the Treasury, as he may deem expedient for the nationalization of all vessels owned by the inhabitants of Porto Rico on the eleventh day of April, eighteen hundred and ninety-nine, and which continued to be so owned up to the date of such nationalization, and for the admission of the same to all the benefits of the coasting trade of the United States; and the coasting trade between Porto Rico and the United States shall be regulated in accordance with the provisions of law applicable to such trade between any two great coasting districts of the United States. (31 Stat. 79.)

The seacoasts and navigable rivers of the United States and Porto Rico were divided into five great districts, Porto Rico constituting the second district, by R. S. § 4348, as amended by Act May 12, 1906, c. 2453, § 1, post, § 8100. Provisions for the establishment of a light-house district, etc., in Porto Rico, are contained in Act June 17, 1910, c. 301, § 11, post, § 8484.
§ 3757. (Act April 12, 1900, c. 191, § 10.) Quarantine stations and regulations.

Quarantine stations shall be established at such places in Porto Rico as the Supervising Surgeon-General of the Marine-Hospital Service of the United States shall direct, and the quarantine regulations relating to the importation of diseases from other countries shall be under the control of the Government of the United States. (31 Stat. 80.)

§ 3758. (Act April 12, 1900, c. 191, § 11.) Redemption of Porto Rican coins; rate of exchange; recoinage; not legal tender for future debts; regulations; payment of existing debts.

For the purpose of retiring the Porto Rican coins now in circulation in Porto Rico and substituting therefor the coins of the United States, the Secretary of the Treasury is hereby authorized to redeem, on presentation in Porto Rico, all the silver coins of Porto Rico known as the peso and all other silver and copper Porto Rican coins now in circulation in Porto Rico, not including any such coins that may be imported into Porto Rico after the first day of February nineteen hundred, at the present established rate of sixty cents in the coins of the United States for one peso of Porto Rican coin, and for all minor or subsidiary coins the same rate of exchange shall be applied. The Porto Rican coins so purchased or redeemed shall be recoined at the expense of the United States, under the direction of the Secretary of the Treasury, into such coins of the United States now authorized by law as he may direct, and from and after three months after the date when this Act shall take effect no coins shall be a legal tender, in payment of debts thereafter contracted for any amount in Porto Rico, except those of the United States; and whatever sum may be required to carry out the provisions hereof, and to pay all expenses that may be incurred in connection therewith, is hereby appropriated, and the Secretary of the Treasury is hereby authorized to establish such regulations and employ such agencies as may be necessary to accomplish the purpose hereof: Provided, however, That all debts owing on the date when this Act shall take effect shall be payable in the coins of Porto Rico now in circulation, or in the coins of the United States at the rate of exchange above named. (31 Stat. 80.)

§ 3759. (Act April 12, 1900, c. 191, § 12.) Expenses of government and internal improvements to be paid out of Porto Rican revenues; exceptions.

All expenses that may be incurred on account of the government of Porto Rico for salaries of officials and the conduct of their offices and departments, and all expenses and obligations contracted for the internal improvement or development of the island, not, however, including defenses, barracks, harbors, light-houses, buoys, and other works undertaken by the United States, shall be paid by (1506)
the treasurer of Porto Rico out of the revenues in his custody. (31 Stat. 80.)

The salary of the resident commissioner to the United States was to be paid by the United States by a provision of section 39 of this act, post, § 3766.

§ 3760. (Act April 12, 1900, c. 191, § 13.) Property acquired from Spain under control of government of Porto Rico; harbor areas and navigable waters excepted.

All property which may have been acquired in Porto Rico by the United States under the cession of Spain in said treaty of peace in any public bridges, road houses, water powers, highways, un navigable streams, and the beds thereof, subterranean waters, mines, or minerals under the surface of private lands, and all property which at the time of the cession belonged, under the laws of Spain then in force, to the various harbor-works boards of Porto Rico, and all the harbor shores, docks, slips, and reclaimed lands, but not including harbor areas or navigable waters, is hereby placed under the control of the government established by this Act to be administered for the benefit of the people of Porto Rico; and the legislative assembly hereby created shall have authority, subject to the limitations imposed upon all its acts, to legislate with respect to all such matters as it may deem advisable. (31 Stat. 80.)

The President was authorized to reserve certain public lands and buildings in Porto Rico for public purposes, and the rest of the public lands were granted to Porto Rico, by Act July 1, 1902, c. 1383, § 1, post, § 3761.

The Secretary of War was empowered to authorize the construction, under certain restrictions, of wharves, piers, etc., in Porto Rico, by Act June 11, 1906, c. 3075, post, §§ 3799-3800.

§ 3761. (Act July 1, 1902, c. 1383, § 1.) Reservation of certain public lands and buildings for public purposes of the United States; other public lands, etc., granted to Porto Rico; release of claims by Porto Rico to lands reserved by United States; private rights not affected.

That the President be, and he is hereby, authorized to make, within one year after the approval of this Act, such reservation of public lands and buildings belonging to the United States in the island of Porto Rico, for military, naval, light-house, marine-hospital, post-offices, custom-houses, United States courts, and other public purposes, as he may deem necessary, and all the public lands and buildings, not including harbor areas and navigable streams and bodies of water and the submerged lands underlying the same, owned by the United States in said island and not so reserved be, and the same are hereby, granted to the government of Porto Rico, to be held or disposed of for the use and benefit of the people of said island: Provided, that said grant is upon the express condition that the government of Porto Rico, by proper authority, release to the United States any interest or claim it may have in or upon the lands or buildings reserved by the President under the provisions of this Act: And provided further, That nothing herein contained shall be so construed as to affect any legal or equitable rights acquired by the government of Porto Rico or by any other
party, under any contract, lease, or license made by the United States authorities prior to the first day of May, nineteen hundred. (32 Stat. 731.)

This section was part of an act entitled "An act authorizing the President to reserve public lands and buildings in the island of Porto Rico for public uses, and granting other public lands and buildings to the government of Porto Rico, and for other purposes."

Section 2 of the act made an appropriation for the purchase of a law library for the use of the United States district court for Porto Rico. It is omitted as temporary merely.

Section 3 of the act provided that the resident commissioner from Porto Rico should be entitled to his traveling expenses, and changed the date of the expiration of his term of office. It is set forth post, § 3797.

§ 3762. (Act April 12, 1900, c. 191, § 14.) Laws of United States extended to Porto Rico; exceptions.

The statutory laws of the United States not locally inapplicable, except as hereinbefore or hereinafter otherwise provided, shall have the same force and effect in Porto Rico as in the United States, except the internal-revenue laws, which, in view of the provisions of section three, shall not have force and effect in Porto Rico. (31 Stat. 80.)

§ 3763. (Act April 12, 1900, c. 191, § 15.) Power to amend or repeal any law continued in force granted to legislature.

The legislative authority hereinafter provided shall have power by due enactment to amend, alter, modify, or repeal any law or ordinance, civil or criminal, continued in force by this Act, as it may from time to time see fit. (31 Stat. 80.)

§ 3764. (Act April 12, 1900, c. 191, § 16.) Style of judicial process; oath of officials.

All judicial process shall run in the name of "United States of America, ss: the President of the United States," and all criminal or penal prosecutions in the local courts shall be conducted in the name and by the authority of "The people of Porto Rico," and all officials authorized by this Act shall before entering upon the duties of their respective offices take an oath to support the Constitution of the United States and the laws of Porto Rico. (31 Stat. 81.)

§ 3765. (Act April 12, 1900, c. 191, § 17.) The governor; appointment; term; residence and office; powers; reports; duties delegated by the President.

The official title of the chief executive officer shall be "The Governor of Porto Rico." He shall be appointed by the President, by and with the advice and consent of the Senate; he shall hold his office for a term of four years and until his successor is chosen and qualified unless sooner removed by the President; he shall reside in Porto Rico during his official incumbency, and shall maintain his office at the seat of government; he may grant pardons and reprieves, and remit fines and forfeitures for offenses against the laws of Porto Rico, and respites for offenses against the laws of the (1508)
United States, until the decision of the President can be ascertained; he shall commission all officers that he may be authorized to appoint, and may veto any legislation enacted, as hereinafter provided; he shall be the commander in chief of the militia, and shall at all times faithfully execute the laws, and he shall in that behalf have all the powers of governors of the Territories of the United States that are not locally inapplicable; and he shall annually, and at such other times as he may be required, make official report of the transactions of the government in Porto Rico, through the Secretary of State, to the President of the United States: Provided, That the President may, in his discretion, delegate and assign to him such executive duties and functions as may in pursuance with law be so delegated and assigned. (31 Stat. 81.)

Reports made by the governor or members of the executive council were all required to be made to an executive department of the United States government to be designated by the President, by Act July 15, 1900, c. 4, § 2, post, § 3775.

THE EXECUTIVE COUNCIL

§ 3766. (Act April 12, 1900, c. 191, § 18.) Executive council; members; appointment; term; powers and duties of council.

There shall be appointed by the President, by and with the advice and consent of the Senate, for the period of four years, unless sooner removed by the President, a secretary, an attorney-general, a treasurer, an auditor, a commissioner of the interior, and a commissioner of education, each of whom shall reside in Porto Rico during his official incumbency and have the powers and duties hereinafter provided for them, respectively, and who, together with five other persons of good repute, to be also appointed by the President for a like term of four years, by and with the advice and consent of the Senate, shall constitute an executive council, at least five of whom shall be native inhabitants of Porto Rico, and, in addition to the legislative duties hereinafter imposed upon them as a body, shall exercise such powers and perform such duties as are hereinafter provided for them, respectively, and who shall have power to employ all necessary deputies and assistants for the proper discharge of their duties as such officials and as such executive council. (31 Stat. 81.)

§ 3767. (Act April 12, 1900, c. 191, § 19.) Secretary; duties.

The secretary shall record and preserve minutes of the proceedings of the executive council and the laws enacted by the legislative assembly and all acts and proceedings of the governor, and shall promulgate all proclamations and orders of the governor and all laws enacted by the legislative assembly. He shall, within sixty days after the end of each session of the legislative assembly, transmit to the President, the President of the Senate, the Speaker of the House of Representatives, and the Secretary of State of the United States one copy each of the laws and journals of such session. (31 Stat. 81.)

(1509)
§ 3768. (Act April 12, 1900, c. 191, § 20.) Secretary to act as governor in case of death, removal, etc., of governor.
In case of the death, removal, resignation, or disability of the governor, or his temporary absence from Porto Rico, the secretary shall exercise all the powers and perform all the duties of the governor during such vacancy, disability, or absence. (31 Stat. 81.)

§ 3769. (Act April 12, 1900, c. 191, § 21.) Attorney-general; powers and duties.
The attorney-general shall have all the powers and discharge all the duties provided by law for an attorney of a Territory of the United States in so far as the same are not locally inapplicable, and he shall perform such other duties as may be prescribed by law, and make such reports, through the governor, to the Attorney-General of the United States as he may require, which shall annually be transmitted to Congress. (31 Stat. 82.)

Reports made by the governor or members of the executive council were all required to be made to an executive department of the United States government, to be designated by the President, by Act July 15, 1900, c. 4, § 2, post, § 3775.

§ 3770. (Act April 12, 1900, c. 191, § 22.) Treasurer; powers and duties.
The treasurer shall give bond, approved as to form by the attorney-general of Porto Rico, in such sum as the execution council may require, not less, however, than the sum of one hundred thousand dollars, with surety approved by the governor, and he shall collect and be the custodian of the public funds, and shall disburse the same when appropriated by law, on warrants signed by the auditor and countersigned by the governor, and shall perform such other duties as may be prescribed by law, and make, through the governor, such reports to the Secretary of the Treasury of the United States as he may require, which shall annually be transmitted to Congress. (31 Stat. 82.)

Reports made by the governor or members of the executive council were all required to be made to an executive department of the United States government, to be designated by the President, by Act July 15, 1900, c. 4, § 2, post, § 3775.

§ 3771. (Act April 12, 1900, c. 191, § 23.) Auditor; duties.
The auditor shall keep full and accurate accounts, showing all receipts and disbursements and perform such other duties as may be prescribed by law, and make, through the governor, such reports to the Secretary of the Treasury of the United States as he may require, which shall annually be transmitted to Congress. (31 Stat. 82.)

Reports made by the governor or members of the executive council were all required to be made to an executive department of the United States government, to be designated by the President, by Act July 15, 1900, c. 4, § 2, post, § 3775.

§ 3772. (Act April 12, 1900, c. 191, § 24.) Commissioner of the interior; powers and duties.
The commissioner of the interior shall superintend all works of (1510)
a public nature, and shall have charge of all public buildings, grounds, and lands, except those belonging to the United States, and shall execute such requirements as may be imposed by law with respect thereto, and shall perform such other duties as may be prescribed by law, and make such reports through the governor to the Secretary of the Interior of the United States as he may require, which shall annually be transmitted to Congress. (31 Stat. 82.)

Reports made by the governor or members of the executive council were all required to be made to an executive department of the United States government, to be designated by the President, by Act July 15, 1909, c. 4, § 2, post, § 3775.

§ 3773. (Act April 12, 1900, c. 191, § 25.) Commissioner of education; powers and duties.

The commissioner of education shall superintend public instruction throughout Porto Rico, and all disbursements on account thereof must be approved by him: and he shall perform such other duties as may be prescribed by law, and make such reports through the governor as may be required by the Commissioner of Education of the United States, which shall annually be transmitted to Congress. (31 Stat. 82.)

Reports made by the governor or members of the executive council were all required to be made to an executive department of the United States government, to be designated by the President, by Act July 15, 1909, c. 4, § 2, post. § 3775.

§ 3774. (Act April 12, 1900, c. 191, § 26.) Other members of council; duties; compensation.

The other five members of the executive council, to be appointed as hereinbefore provided, shall attend all meetings of the executive council and participate in all business of every character that may be transacted by it; and they shall receive as compensation for their services such annual salaries as may be provided by the legislative assembly. (31 Stat. 82.)

§ 3775. (Act July 15, 1909, c. 4, § 2.) All reports to be made to an executive department of the United States to be designated by the President; all matters relating to government of Porto Rico within jurisdiction of that department.

All reports required by law to be made by the governor or members of the executive council of Porto Rico to any official in the United States shall hereafter be made to an executive department of the Government of the United States to be designated by the President; and the President is hereby authorized to place all matters pertaining to the government of Porto Rico in the jurisdiction of such department. (36 Stat. 11.)

This was section 2 of an act entitled "An act to amend an act entitled 'An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes,' approved April twelfth, nineteen hundred," cited above.

Section 1 of this act amended Act April 12, 1900, c. 191, § 31, and is incorporated in that section as set forth, post, § 3780.

Reports by the governor and other members of the executive council were
required to be made to various officers and departments of the United States government by Act April 12, 1900, c. 191, §§ 17, 21-25, ante, §§ 3765, 3769-3773.

HOUSE OF DELEGATES

§ 3776. (Act April 12, 1900, c. 191, § 27.) Legislative assembly; executive council and house of delegates; number of delegates.

All local legislative powers hereby granted shall be vested in a legislative assembly which shall consist of two houses; one the executive council, as hereinbefore constituted, and the other a house of delegates, to consist of thirty-five members elected biennially by the qualified voters as hereinafter provided; and the two houses thus constituted shall be designated "The legislative assembly of Porto Rico." (31 Stat. 82.)

§ 3777. (Act April 12, 1900, c. 191, § 28.) Districts for election of delegates.

For the purposes of such elections Porto Rico shall be divided by the executive council into seven districts, composed of contiguous territory and as nearly equal as may be in population, and each district shall be entitled to five members of the house of delegates. (31 Stat. 82.)

ELECTION OF DELEGATES

§ 3778. (Act April 12, 1900, c. 191, § 29.) First election of delegates; term of office; qualifications of voters; organization of house; length of session; enacting clause of laws; compensation of members; subsequent elections.

The first election for delegates shall be held on such date and under such regulations as to ballots and voting as the executive council may prescribe; and at such elections the voters of each legislative district shall choose five delegates to represent them in the house of delegates from the date of their election and qualification until two years from and after the first day of January next ensuing; of all which thirty days' notice shall be given by publication in the Official Gazette, or by printed notices distributed and posted throughout the district, or by both, as the executive council may prescribe. At such elections all citizens of Porto Rico shall be allowed to vote who have been bona fide residents for one year and who possess the other qualifications of voters under the laws and military orders in force on the first day of March, nineteen hundred, subject to such modifications and additional qualifications and such regulations and restrictions as to registration as may be prescribed by the executive council. The house of delegates so chosen shall convene at the capital and organize by the election of a speaker, a clerk, a sergeant-at-arms, and such other officers and assistants as it may require, at such time as may be designated by the executive council; but it shall not continue in session longer than sixty days in any one year, unless called by the governor to meet in extraordinary session. The enacting clause of the laws shall be, "Be it enacted by the legislative assembly of Porto Rico;" and each member of the house of delegates shall be paid for his serv-

(1512)
ices at the rate of five dollars per day for each day's attendance while the house is in session, and mileage at the rate of ten cents per mile for each mile necessarily traveled each way to and from each session of the legislative assembly.

All future elections of delegates shall be governed by the provisions hereof, so far as they are applicable, until the legislative assembly shall otherwise provide. (31 Stat. 82.)

§ 3779. (Act April 12, 1900, c. 191, § 30.) Powers of house of delegates; qualifications of members.

The house of delegates shall be the sole judge of the elections, returns, and qualifications of its members, and shall have and exercise all the powers with respect to the conduct of its proceedings that usually appertain to parliamentary legislative bodies. No person shall be eligible to membership in the house of delegates who is not twenty-five years of age and able to read and write either the Spanish or the English language, or who is not possessed in his own right of taxable property, real or personal, situated in Porto Rico. (31 Stat. 83.)

§ 3780. (Act April 12, 1900, c. 191, § 31, as amended, Act July 15, 1909, c. 4, § 1.) Passage of bills; approval or veto by governor; adoption over veto; failure of governor to approve or veto; power of Congress to annul laws; failure to make necessary appropriations for the support of the government.

All bills may originate in either house, but no bill shall become a law unless it be passed in each house by a majority vote of all the members belonging to such house and be approved by the governor within ten days thereafter. If, when a bill that has been passed is presented to the governor for signature, he approves the same, he shall sign it, or if not he shall return it, with his objections, to that house in which it originated, which house shall enter his objections at large on its journal, and proceed to reconsider the bill. If, after such reconsideration, two-thirds of that house shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be considered, and if approved by two-thirds of that house it shall become a law. But in all such cases the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered upon the journal of each house, respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law in like manner as if he had signed it, unless the legislative assembly by adjournment prevent its return, in which case it shall not be a law: Provided, however, That all laws enacted by the legislative assembly shall be reported to the Congress of the United States, which hereby reserves the power and authority, if deemed advisable, to annul the same. And provided further, That if at the termination of any fiscal year the appropriations necessary for the support of government for the ensuing fiscal year shall not have been made an amount equal to the sums appropriated in the last appropriation bills for such pur-

(1518)
§ 3780. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

Pose shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purpose aforesaid. (31 Stat. 83. 36 Stat. 11.)

This section, as originally enacted, did not contain the last proviso, beginning with the words "And provided further, That if at the termination," etc., to the end of the section as set forth here. Said further proviso was added by amendment of the section by Act July 15, 1900, c. 4, § 1, last cited above.

§ 3781. (Act April 12, 1900, c. 191, § 32.) Scope of legislative power; grants of public and quasi-public franchises, etc.

The legislative authority herein provided shall extend to all matters of a legislative character not locally inapplicable, including power to create, consolidate, and reorganize the municipalities, so far as may be necessary, and to provide and repeal laws and ordinances therefor; and also the power to alter, amend, modify, and repeal any and all laws and ordinances of every character now in force in Porto Rico, or any municipality or district thereof, not inconsistent with the provisions hereof; Provided, however, That all grants of franchises, rights, and privileges or concessions of a public or quasi-public nature shall be made by the executive council, with the approval of the governor, and all franchises granted in Porto Rico shall be reported to Congress, which hereby reserves the power to annul or modify the same. (31 Stat. 83.)

Subsequent provisions relating to the granting of franchises, privileges, and concessions were made by Res. May 1, 1900, No. 23, §§ 2, 3, post. §§ 3782, 3783.

§ 3782. (Res. May 1, 1900, No. 23, § 2.) Franchises to be approved by the President.

All railroad, street railway, telegraph and telephone franchises, privileges or concessions granted under section thirty-two of said Act shall be approved by the President of the United States, and no such franchise, privilege, or concession shall be operative until it shall have been so approved. (31 Stat. 716.)

This section and the section next following were part of a resolution entitled "Joint Resolution to provide for the administration of civil affairs in Porto Rico pending the appointment and qualification of the civil officers provided for in the Act approved April twelfth, nineteen hundred, entitled, 'An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes.'"

Section 32 of the act mentioned in said title and referred to in this section and the section following, Act April 12, 1900, c. 191, § 32, is set forth, ante, § 3781.

Section 1 of this resolution provided that the officers then performing the civil duties in Porto Rico should continue to perform them until officers were appointed under said Act April 12, 1900, c. 191, not, however, after Aug. 1, 1900. It is omitted as temporary merely.

§ 3783. (Res. May 1, 1900, No. 23, § 3.) Special provisions in franchises, etc.; real estate holdings of corporations restricted.

All franchises, privileges or concessions granted under section thirty-two of said Act shall provide that the same shall be subject to amendment, alteration, or repeal; shall forbid the issue of stock or bonds, except in exchange for actual cash, or property at a fair val-

(1514)
uation, equal in amount to the par value of the stock or bonds issued; shall forbid the declaring of stock or bond dividends; and, in the case of public-service corporations, shall provide for the effective regulation of the charges thereof and for the purchase or taking by the public authorities of their property at a fair and reasonable valuation. No corporation shall be authorized to conduct the business of buying and selling real estate or be permitted to hold or own real estate except such as may be reasonably necessary to enable it to carry out the purposes for which it was created, and every corporation hereafter authorized to engage in agriculture shall by its charter be restricted to the ownership and control of not to exceed five hundred acres of land; and this provision shall be held to prevent any member of a corporation engaged in agriculture from being in any wise interested in any other corporation engaged in agriculture. Corporations, however, may loan funds upon real estate security, and purchase real estate when necessary for the collection of loans, but they shall dispose of real estate so obtained within five years after receiving the title. Corporations not organized in Porto Rico, and doing business therein, shall be bound by the provisions of this section so far as they are applicable. (31 Stat. 716.)

See note to section 2 of this resolution, ante, § 3782.

THE JUDICIARY

§ 3784. (Act April 12, 1900, c. 191, § 33.) Existing courts, jurisdiction, and procedure continued; appointment of justices and marshal of the supreme court; appointment of judges of the district court; selection of other officers; power of legislature.

The judicial power shall be vested in the courts and tribunals of Porto Rico as already established and now in operation, including municipal courts, under and by virtue of General Orders, Numbered One hundred and eighteen, as promulgated by Brigadier-General Davis, United States Volunteers, August sixteenth, eighteen hundred and ninety-nine, and including also the police courts established by General Orders, Numbered One hundred and ninety-five, promulgated November twenty-ninth, eighteen hundred and ninety-nine, by Brigadier-General Davis, United States Volunteers, and the laws and ordinances of Porto Rico and the municipalities thereof in force, so far as the same are not in conflict herewith, all which courts and tribunals are hereby continued. The jurisdiction of said courts and the form of procedure in them, and the various officials and attachés thereof, respectively, shall be the same as defined and prescribed in and by said laws and ordinances, and said General Orders, Numbered One hundred and eighteen and One hundred and ninety-five, until otherwise provided by law: Provided, however, That the chief justice and associate justices of the supreme court and the marshal thereof shall be appointed by the President, by and with the advice and consent of the Senate, and the judges of the district courts shall be appointed by the governor, by and with the advice and consent of the executive council, and all other officials and attachés of all the other courts shall be chosen as may be directed by the legislative as-

(1515)
§ 3785. Judicial district of Porto Rico; judge, attorney and marshal; appointment; terms of office; officers of court; jurisdiction; procedure; writs of error and appeals and removal of causes from courts of Porto Rico; terms of court; proceedings conducted in English; district court to succeed provisional court.

Porto Rico shall constitute a judicial district to be called "the district of Porto Rico." The President, by and with the advice and consent of the Senate, shall appoint a district judge, a district attorney, and a marshal for said district, each for a term of four years, unless sooner removed by the President. The district court for said district shall be called the district court of the United States for Porto Rico and shall have power to appoint all necessary officials and assistants, including a clerk, an interpreter, and such commissioners as may be necessary, who shall have like power and duties as are exercised and performed by commissioners of the circuit courts of the United States, and shall have, in addition to the ordinary jurisdiction of district courts of the United States, jurisdiction of all cases cognizant in the circuit courts of the United States, and shall proceed therein in the same manner as a circuit court. The laws of the United States relating to appeals, writs of error and certiorari, removal of causes, and other matters and proceedings as between the courts of the United States and the courts of the several States shall govern in such matters, and proceedings as between the district court of the United States and the courts of Porto Rico. Regular terms of said court shall be held at San Juan, commencing on the second Monday in April and October of each year, and also at Ponce on the second Monday in January of each year, and special terms may be held at Mayaguez at such other stated times as said judge may deem expedient. All pleadings and proceedings in said court shall be conducted in the English language.

The United States district court hereby established shall be the successor to the United States provisional court established by General Orders, Numbered Eighty-eight, promulgated by Brigadier-General Davis, United States Volunteers, and shall take possession of all records of that court, and take jurisdiction of all cases and proceedings pending therein, and said United States provisional court is hereby discontinued. (31 Stat. 85.)

The words "commissioners of the circuit courts of the United States," used in this section, may be regarded as referring to United States commissioners, the office of commissioner of the circuit court having been abolished, and that of United States Commissioner, with the same powers and duties, having been created by Act May 28, 1896, c. 252, § 19, ante, § 1337.

The circuit courts of the United States were abolished, and their powers and
duties were transferred to the district courts by Jud. Code, §§ 280–291, ante, §§ 1098–1269.

Additional jurisdiction was conferred upon the district court by Act March 2, 1901, c. 812, § 3, post, § 3782.

Provisions for holding the United States district court by a judge of the Porto Rican supreme court, during the absence, disqualification, or inability to act of the district judge, were made by Act Jan. 7, 1913, c. 6, post, § 3787.

The qualifications of jurors in the district court were prescribed by Act June 25, 1906, c. 8642, post, § 3788.

Provisions relating to the fees and expenses of the United States district court and the United States commissioners were made by Act March 2, 1901, c. 812, § 2, post, § 3789.

The fees of jurors and witnesses in the United States district court were prescribed by Act March 2, 1901, c. 812, § 4, post, § 3790.

§ 3785. (Act March 2, 1901, c. 812, § 3.) Jurisdiction of United States district court extended.

The jurisdiction of the district court of the United States for Porto Rico in civil cases shall, in addition to that conferred by the Act of April twelfth, nineteen hundred, extend to and embrace controversies where the parties, or either of them, are citizens of the United States, or citizens or subjects of a foreign State or States, wherein the matter in dispute exceeds, exclusive of interest or costs, the sum or value of one thousand dollars. (31 Stat. 953.)

This section was section 3 of an act to amend Act April 12, 1900, c. 191, and to increase the salary of the commissioner of education, cited above.

Section 1 of said act, increasing the salary of said commissioner of education and requiring the executive council to fix the salaries of all officials and assistants appointed by the district court, is set forth post, § 3792.

Sections 2, 4 of said act, relating to the fees and expenses of the district court and of witnesses and jurors therein, are set forth post, §§ 3795, 3796.

§ 3787. (Act Jan. 7, 1913, c. 6.) Justice of supreme court of Porto Rico may be designated as temporary or special judge of United States district court in absence, etc., of district judge.

Whenever the United States district judge of the district of Porto Rico shall be absent from the said district, and that fact shall be made to appear by the certificate in writing of the United States attorney or marshal of that district, filed in the office of the clerk of the United States district court for said district, or when for any reason the said judge shall or may be disqualified or unable to act as such in any cause pending in the district court of the United States for Porto Rico, and that fact shall be made to appear either by proper order entered in the record of said cause by the regular district judge, or by the certificate in writing of the United States attorney or marshal of that district filed in the office of the clerk of the United States district court for said district, the governor of Porto Rico may, by writing filed in the said clerk's office, designate a justice of the supreme court of Porto Rico either as temporary judge of said district court or as special judge thereof; and the temporary judge so designated as aforesaid shall have and may exercise within said district, during the absence of the regular district judge, all the power of every kind by law vested in said district judge, and after the return of said district judge to said district, shall continue to have and exercise said powers with respect to any cause, the trial of which shall have been com-
menced before him or which shall have been submitted to him for decision prior to the return of said district judge; and the special judge so designated as aforesaid shall have and may exercise within said district all the power of every kind by law vested in said district judge with respect to any cause named in the writing by the governor, filed as aforesaid, designating the said special judge as aforesaid: Provided, That no additional compensation shall be paid to either such temporary district judge or special district judge for services rendered pursuant to such designation. (37 Stat. 648.)

This was an act entitled "An act to provide for holding the district court of the United States for Porto Rico during the absence from the island of the United States district judge and for the trial of cases in the event of the disqualification of or inability to act by the said judge."

§ 3788. (Act June 25, 1906, c. 3542.) Jurors in United States district court; qualifications; exemptions; selection.

The qualifications of jurors as fixed by the local laws of Porto Rico shall not apply to jurors selected to serve in the district court of the United States for Porto Rico, but that the qualifications required of jurors in said court shall be that each shall be of the age of twenty-one years and not over sixty-five years, a resident of Porto Rico for not less than one year, and having a sufficient knowledge of the English language to enable him to duly serve as a juror: Provided, That the exemption from jury duty allowed by the local law shall be respected by the court when insisted upon by veniremen: And provided further, That the juries for said court shall always be selected and drawn in accordance with the laws of Congress regulating the same in the United States courts. (34 Stat. 466.)

This was an act entitled "An act defining the qualifications of jurors for service in the United States district court in Porto Rico."

§ 3789. (Act March 2, 1901, c. 812, § 2.) Fees and expenses of district court payable from Porto Rican revenues; fees earned to become part of Porto Rican revenues; fees of commissioners.

Such fees and expenses as are payable by the United States, if earned or incurred in connection with a circuit or district court of the United States, shall be paid from the revenues of Porto Rico, if earned or incurred in connection with the district court of the United States for Porto Rico. That all such fees, fines, costs, and forfeitures as would be deposited to the credit of the United States, if collected and paid into a circuit or district court of the United States, shall become revenues of Porto Rico, if collected and paid into the district court of the United States for Porto Rico. The commissioners appointed, as provided in section thirty-four of said Act approved April twelfth, nineteen hundred, shall be entitled to the fees provided for United States commissioners. (31 Stat. 953.)

This section and the section next following were part of an act to amend Act April 12, 1900, c. 191, etc.

Section 1 of this act, increasing the salary of the commissioner of education, and requiring the executive council to fix the salaries of district court officials and assistants, is set forth post, § 3798.

Section 3 of this act, extending the jurisdiction of the district court, is set forth, ante, § 3788.

A further provision of this section, requiring the accounting officers to al-
low payments of fees and expenses theretofore made by the district marshal from funds advanced him either by the United States or by Porto Rico. It is omitted, as temporary merely.

§ 3790. (Act March 2, 1901, c. 812, § 4.) Fees and mileage of jurors and witnesses.

Jurors and witnesses in the United States district court of Porto Rico shall be entitled to and receive fifteen cents for each mile necessarily traveled over any stage line or by private conveyance and ten cents for each mile over any railway in going to and returning from said courts: Provided, That no constructive or double mileage fees shall be allowed by reason of any person being summoned both as witness and juror, or as witness in two or more cases pending in the same court and triable at the same term thereof. (31 Stat. 954.)

§ 3791. (Act April 12, 1900, c. 191, § 35.) Writs of error and appeals from supreme court of Porto Rico and United States district court to United States Supreme Court; habeas corpus proceedings in United States Supreme Court to be in English language.

[Writs of error and appeals from the final decisions of the supreme court of Porto Rico and the district court of the United States shall be allowed and may be taken to the Supreme Court of the United States in the same manner and under the same regulations and in the same cases as from the supreme courts of the Territories of the United States; and such writs of error and appeal shall be allowed in all cases where the Constitution of the United States, or a treaty thereof, or an Act of Congress is brought in question and the right claimed thereunder is denied;] and the supreme and district courts of Porto Rico and the respective judges thereof may grant writs of habeas corpus in all cases in which the same are grantable by the judges of the district and circuit courts of the United States. All such proceedings in the Supreme Court of the United States shall be conducted in the English language. (31 Stat. 85.)

The words inclosed in brackets in this section were superseded by the subsequent provisions of the Judicial Code relating to appeals and writs of error from the supreme court and United States district court of Porto Rico to the United States Supreme Court, Jud. Code, § 244, ante, § 1221.

§ 3792. (Act April 12, 1900, c. 191, § 36.) Salaries of officials except presidential appointees fixed by executive council and payable from Porto Rican revenues; not to be changed during incumbency; salaries of presidential appointees payable from Porto Rican revenues; amounts of salaries.

The salaries of all officials of Porto Rico not appointed by the President, including deputies, assistants, and other help, shall be such, and be so paid out of the revenues of Porto Rico, as the executive council shall from time to time determine: Provided, however, That the salary of no officer shall be either increased or diminished during his term of office. The salaries of all officers and all expenses of the offices of the various officials of Porto Rico, appointed as herein provided by the President, including deputies, assistants, and other help,
§ 3792. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23

shall also be paid out of the revenues of Porto Rico on the warrant of the auditor, countersigned by the governor.

The annual salaries of the officials appointed by the President, and so to be paid, shall be as follows:

The governor, eight thousand dollars; in addition thereto he shall be entitled to the occupancy of the buildings heretofore used by the chief executive of Porto Rico, with the furniture and effects therein, free of rental.

The secretary, four thousand dollars.
The attorney-general, four thousand dollars.
The treasurer, five thousand dollars.
The auditor, four thousand dollars.
The commissioner of the interior, four thousand dollars.
The commissioner of education, [three thousand dollars.]
The chief justice of the supreme court, five thousand dollars.
The associate justices of the supreme court (each), four thousand five hundred dollars.
The marshal of the supreme court, three thousand dollars.
The United States district judge, five thousand dollars.
The United States district attorney, four thousand dollars.
The United States district marshal, three thousand five hundred dollars. (31 Stat. 85.)

The words "three thousand dollars," inclosed in brackets in this section, were superseded by the increase of the salary of the commissioner of education to $4,000, by Act March 2, 1901, c. 812, § 1, post, § 3793.

The executive council was required to determine from time to time the salaries of court officials and assistants by further provisions of the same section, post, § 3793.

§ 3793. (Act March 2, 1901, c. 812, § 1.) Salary of commissioner of education; salaries of district court officials fixed by executive council.

The salary of the commissioner of education, for Porto Rico shall, from and after the first day of April, nineteen hundred and one, be four thousand dollars per annum, and in addition to the duties provided by section thirty-six of the Act of April twelfth, nineteen hundred, the executive council shall, from time to time, determine the salaries of all officials and assistants, appointed by the United States district court, including the clerk and the interpreter, which shall be paid out of the revenues of Porto Rico as other salaries and expenses of like character are paid under the provisions of said Act. (31 Stat. 953.)

This was section 1 of an act entitled "An act to amend an act entitled "An act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," approved April twelfth, nineteen hundred, and to increase the salary of the commissioner of education provided for by said act."

Sections 2, 4 of the act, relating to fees and expenses of the district court and of witnesses and jurors therein, are set forth ante, §§ 3789, 3790.

Section 3 of the act extending the jurisdiction of the district court, is set forth ante, § 3786.

Act April 12, 1900, c. 191, § 36, mentioned in this section, is set forth ante, § 3792.

(1520)
§ 3794. (Act April 12, 1900, c. 191, § 37.) Salaries of municipal officers and other municipal expenses payable from municipal revenues.

The provisions of the foregoing section shall not apply to the municipal officials. Their salaries and the compensation of their deputies, assistants, and other help, as well as all other expenses incurred by the municipalities, shall be paid out of the municipal revenues in such manner as the legislative assembly shall provide. (31 Stat. 85.)

§ 3795. (Act April 12, 1900, c. 191, § 38.) Export duties prohibited; taxes and license fees; public indebtedness; limitation.

No export duties shall be levied or collected on exports from Porto Rico; but taxes and assessments on property, and license fees for franchises, privileges, and concessions may be imposed for the purposes of the insular and municipal governments, respectively, as may be provided and defined by act of the legislative assembly; and where necessary to anticipate taxes and revenues, bonds and other obligations may be issued by Porto Rico or any municipal government therein as may be provided by law to provide for expenditures authorized by law, and to protect the public credit, and to reimburse the United States for any moneys which have been or may be expended out of the emergency fund of the War Department for the relief of the industrial conditions of Porto Rico caused by the hurricane of August eighth, eighteen hundred and ninety-nine: Provided, however, That no public indebtedness of Porto Rico or of any municipality thereof shall be authorized or allowed in excess of seven per centum of the aggregate tax valuation of its property. (31 Stat. 86.)

§ 3796. (Act April 12, 1900, c. 191, § 39.) Resident commissioner; election; salary; qualifications.

The qualified voters of Porto Rico shall, on the first Tuesday after the first Monday of November, anno Domini nineteen hundred, and every two years thereafter, choose a resident commissioner to the United States, who shall be entitled to official recognition as such by all Departments, upon presentation to the Department of State of a certificate of election of the governor of Porto Rico, and who shall be entitled to a salary, payable monthly by the United States, at the rate of [five thousand dollars] per annum: Provided, That no person shall be eligible to such election who is not a bona fide citizen of Porto Rico, who is not thirty years of age, and who does not read and write the English language. (31 Stat. 86.)

The words "five thousand dollars," inclosed in brackets in this section were superseded by the increase in the salary of the resident commissioner to $7,500 by Act Feb. 26, 1907, c. 1635, § 4, ante, § 38.

The resident commissioner was allowed traveling expenses in addition to his salary, and the commencement of his term was fixed by Act July 1, 1902, c. 1383, § 3, post, § 3797.

The manner of paying the salary and traveling expenses of the resident commissioner was fixed by a provision of Act June 22, 1906, c. 3514, § 1, post, § 3796.

Comp.St.'13—96 (1521)
§ 3797. (Act July 1, 1902, c. 1383, § 3.) Resident commissioner; traveling expenses; commencement of term of office.

The resident commissioner from Porto Rico to the United States, provided for by section thirty-nine of the Act of April twelfth, nineteen hundred, entitled "An Act temporarily to provide revenues and a civil government for Porto Rico, and for other purposes," shall be entitled, in addition to his salary as now fixed by law, to his actual expenses in traveling to and from Porto Rico once annually, and his term of office shall commence on the fourth day of March next succeeding the date of his election; and the term of office of the present incumbent is hereby extended to the third day of March, nineteen hundred and three. (32 Stat. 732.)

This was section 3 of an act authorizing the reservation of public lands and buildings, etc., in Porto Rico.

See note to section 1 of said act, ante, § 3761.

§ 3798. (Act June 22, 1906, c. 3514, § 1.) Manner of payment of salary and expenses of resident commissioner.

For salary of the resident commissioner from Porto Rico to the United States authorized by the Act temporarily to provide revenues and a civil government for Porto Rico, approved April twelfth, nineteen hundred, * *; for traveling expenses, * * which shall hereafter be paid by the Sergeant-at-Arms of the House of Representatives in the same manner as the salaries of the Members of the House of Representatives are now paid. (34 Stat. 417.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1907, cited above.

§ 3799. (Act June 11, 1906, c. 3075, § 1.) Construction of wharves, etc., authorized.

The Secretary of War be, and he is hereby, empowered, subject to the restrictions and under the conditions hereinafter mentioned, to authorize the construction, extension, and maintenance of any wharf, pier, dolphin, boom, weir, breakwater, sea wall, bulkhead, jetty, or other structure on any of the lands belonging to the United States which underlie the harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto and the filling in and dredging of such lands. (34 Stat. 234.)

This section and the four sections next following constituted an act entitled "An act to empower the Secretary of War, under certain restrictions, to authorize the construction, extension, and maintenance of wharves, piers, and other structures on lands underlying harbor areas and navigable streams and bodies of waters in or surrounding Porto Rico and the islands adjacent thereto."

§ 3800. (Act June 11, 1906, c. 3075, § 2.) Meaning of word "person" as used in act.

The word "person" as used in this Act shall be construed to import either the singular or the plural, as the case demands, and shall include individuals, municipalities, quasi-municipal corporations, corporations, companies, and associations. (34 Stat. 234.)

(1522)
§ 3801. (Act June 11, 1906, c. 3075, § 3.) Restrictions upon powers; time to be limited; reservation of right to purchase; subject to amendment or repeal; wharfage fees, etc., subject to control; dredging; time for beginning and completion of work; extension; accounts of expenditure; subletting, sale, etc., without consent or to competitor prohibited; prior right to vessels owned by United States; further restrictions may be imposed by Secretary of War.

The powers granted in the foregoing sections shall be subject, however, to the following restrictions:

(a) No authorization to any person to construct, extend, or maintain any such structure shall continue for a longer period than the period set forth in such authorization, and shall provide that the Government of the United States or with the approval of the Secretary of War the government of Porto Rico shall have the right at any time after the expiration of thirty years from the date of such authorization, and after three months' notice, to take any such structure from the owner thereof upon paying the value of the same at the time it shall be so taken, and the amount paid shall not exceed the original cost of the same as may be fixed under paragraph (f) hereof. In case the Government of the United States or the government of Porto Rico, exercising the right of purchase as aforesaid should claim that the value of the structure when seized and taken is less than its original cost, the extent of deterioration or diminution from the original value shall be determined by a board or commission of four members, two of whom shall be appointed by the Secretary of War for the Government of the United States or by the Governor of Porto Rico for the government of Porto Rico as the case may be and two by the owner of such structure. If the four members thus chosen and appointed shall not be able to agree, they shall choose by mutual agreement a referee, whose decision shall be final, but in no case shall the amount to be paid exceed the original cost as fixed under the provisions of said paragraph (f). If the four members thus chosen and appointed are unable by mutual agreement to select a referee, then the Chief of Engineers of the United States Army shall be the referee, and his decision shall be final.

All authorizations granted by the Secretary of War for any such construction, extension, or maintenance

(b) Shall be subject to alteration, amendment, or repeal by Congress;

(c) Shall provide that the wharfage fees and charges for vessels, for passengers, and for goods loaded or discharged on, from, at, or over any such structure, and for approach and entry to any such structure, shall be no greater than are just, reasonable, and fairly remunerative, and for that purpose shall at all times be subject to regulation and revision by the said Secretary of War; that such fees and charges shall be the same for all persons, and all persons shall have equal right to approach, enter, and use the said structure, subject to such reasonable rules and regulations as the grantee
thereof may establish, all of which rules and regulations shall be subject to revision by the Secretary of War;

(d) That all necessary dredging in or in connection with the said structure, or the use thereof, shall be made by the grantee of the authorization;

(e) That such authorization shall be null and void unless actual construction shall be commenced within one year from the date of such authorization by the Secretary of War, and completed within three years from the date of such authorization, or within such lesser periods as may be therein fixed: Provided, That the Secretary of War may for due cause shown extend the time for the completion of such construction for a reasonable period.

(f) That duly verified accounts of expenditure for the construction, extension, or improvement of such structure shall be exhibited to, and filed with, the United States army engineer at the city of San Juan, Porto Rico, who shall report to the Secretary of War the entire cost of such structure, extension, or improvement to be built under such authorization.

(g) That the said structure shall not be sublet, sold, transferred, or assigned, nor shall the authorization therefor be granted, sold, transferred, or assigned without the consent of the Secretary of War, nor in any case to a person engaged, directly or indirectly, in the same line of business, in the same harbor area, navigable stream, or body of water, and that any grant, subletting, sale, transfer, or assignment in violation hereof shall be null and void;

(h) That any and all vessels owned or chartered by the United States Government shall in case of any emergency, or in time of war, have prior right, free of charge, to the use of any such structure; and

(i) Shall contain such further restrictions as the Secretary of War may see fit to impose therein. (34 Stat. 235.)

§ 3802. (Act June 11, 1906, c. 3075, § 4.) Applicant must be owner or lessee of approaches to shore end; application accompanied by plans and specifications; approval by Chief of Engineers.

No such authorization by the Secretary of War shall be granted to any person unless the applicant therefor shall first furnish to the Secretary of War satisfactory proof either that he (or it) is the owner or lessee of the approaches to the shore end of the proposed structure, with the right to use the same in connection therewith, or that he (or it) is the owner of a franchise granting the right to use said approaches in connection with such proposed structure. Every application to the Secretary of War for any such authorization shall be accompanied by plans and specifications for such structure, extension, or improvement, with said plans and specifications shall be submitted to, and approved by, the Chief of Engineers of the United States Army before the granting of any such authorization by the Secretary of War, and such plans and specifications shall not be deviated from in any such structure, extension, or im-
provement without the written consent, first obtained, of the said Chief of Engineers. (34 Stat. 236.)

§ 3803. (Act June 11, 1906, c. 3075, § 5.) Existing rights not affected.

Nothing herein contained shall be so construed as to affect legal or equitable rights, if any, existing at the date of the approval of this Act which were acquired by the government of Porto Rico or any other part under any contract, lease or license; for the construction, extension, improvement, or maintenance of any such structure, granted by the United States authorities prior to the approval of this Act. (34 Stat. 236.)

CHAPTER THREE D

The Philippine Islands

The archipelago known as the Philippine Islands having been ceded to the United States by Spain by the Treaty of Dec. 10, 1898, 30 Stat. 1754, all military, civil and judicial powers, necessary to govern the islands, until Congress should otherwise provide, were vested in such person and persons, and were to be exercised in such manner, as the President should direct, by provisions of Act March 2, 1901, c. 803, 31 Stat. 910, and such powers were exercised by the United States Philippine Commission established by the President, and by a Civil Governor and Vice Governor appointed by him, in pursuance of said provisions. Thereafter provisions temporarily to provide revenue for the islands were made by Act March 8, 1902, c. 140, 32 Stat. 54, and a temporary civil government was established by Act July 1, 1902, c. 1336, 32 Stat. 691, which was amended extensively by Act Feb. 6, 1905, c. 453, 33 Stat. 689.

This chapter includes the provisions of said Philippine Revenue Act and Philippine Government Acts and of other subsequent acts amendatory thereof or otherwise relating to the same subjects, general and permanent in their nature, which remain in force and applicable to said islands.


Sec. 3804. Establishment of civil government ratified; enacting clause of laws passed by Philippine Commission; United States Constitution and laws not to apply; appointments of civil officers.

3805. Title of civil governor.

3806. Additional member for Philippine Commission.

3807. Creation of new executive department by President authorized.

3808. Regulation of commercial intercourse during insurrection.

3809. Philippine citizenship; extension of right to citizenship by legislature authorized.

3810. Declaration of rights.

3811. Evidence necessary to convict of treason.

3812. Philippine census; contents of report; assistance of Census Bureau.

3813. Philippine assembly; election of members; to constitute, with commission, the legislature; number of members; apportionment and notice; regulation of elections of members; qualifications of electors; term of office of members; qualifications of members; annual sessions of legislature; failure to make necessary appropriations; special sessions; powers and procedure of assembly.

(1525)
Sec. 3814. Members of assembly to hold office four years; date of commencement of annual session of legislature to be fixed.

3815. Resident commissioners to the United States; rights; selection; compensation; qualifications.

3816. Term of resident commissioners to be four years; commencement of term; stationery and clerk hire for resident commissioners; franking privilege.

3817. Salary of resident commissioners.

3818. Jurisdiction of supreme court and courts of first instance; of municipal courts; appointment and compensation of justices of supreme court; appointment of judges of court of first instance; admiralty jurisdiction changed only by act of Congress.

3819. Compensation of supreme court justices; temporary justice to fill vacancy; designation; compensation.

3820. Supreme Court; special term at Baguio, or elsewhere, authorized.

3821. Improvement of navigable waters; construction of wharves, lighthouses, life-saving stations, etc.; bonded warehouses.

3822. Property acquired by United States from Spain to be under control of insular government.

3823. Classification of public lands; rules and regulations for disposition; mineral and timber lands excepted; rules to be approved by President and submitted to Congress; limit of area of homestead.

3824. Rules for perfecting titles of claimants from Spain; issuance of patents to native occupants.

3825. Grant of lands, other than timber or mineral lands, authorized; limit of area; conditions.

3826. Preference right of settlers; right of native occupants; limit of area of settler's preference right.

3827. Preservation of forests; use of revenues from public lands.

3828. Forest laws and regulations continued in force; lands reserved unless certified by forestry bureau to be agricultural; licenses to cut timber, etc.

Sec. 3829. Beneficial use measure of water rights; rules and regulations for use of water authorized; reservations for protection of water supply and other public purposes.

MINERAL LANDS

3830. Mineral lands reserved for sale except as expressly directed.

3831. Mineral deposits and lands open to purchase by citizens of United States or of Philippines; lands entered as agricultural to be paid for as mineral when minerals are found thereon before patent.

3832. Location of mineral claims; dimensions; shape.

3833. Marking of mineral claim.

3834. Marking location line and discovery post; guides for survey.

3835. Moving of posts by surveyor.

3836. Location line to govern direction.

3837. Rights to minerals; no extraterritorial rights.

3838. Recording full size claim; affidavit; description and markings of claim.

3839. Recording fractional claim; affidavit or declaration; plan; effect of failure to comply with requirements.

3840. Marking claim where impossible to mark location line.

3841. Recording mineral claim.

3842. Priority of location to determine title.

3843. No holder entitled to more than one claim on same lode.

3844. Abandonment of claim; notice.

3845. Proofs of citizenship.

3846. Mining regulations; annual labor; failure to perform annual labor to subject claim to relocation; rights of co-owner failing to contribute portion of annual labor forfeited after notice; period for performing annual labor.

3847. Patents for mineral claims; application; posting of notice; publication of notice; certificate of labor or improvements; issue of patent if uncontested; price; affidavit by agent of non-resident claimant.

3848. Proof of citizenship of non-residents.

(1526)
3850. Reference to public surveys; surveys extended subsequent to patent of mineral claims.

3851. Building stone lands entered as placer claims.

3852. Petroleum lands entered as placer claims.

3853. Placer claims; limit of area; conformity to laws of survey; agricultural rights not affected.

3854. Placer claims on surveyed lands to conform to legal subdivisions; on unsurveyed land; fractional subdivision of agricultural land after segregation of mineral lands.

3855. Right to patent to placer claims; prior liens preserved.

3856. Appointment of deputy mineral surveyors; expense of surveys; authority to fix maximum charges for surveys and publications; statement of charges and fees paid by applicant to be filed.

3857. Verifications made and testimony and proofs taken before any officer authorized to administer oaths; contests as to character of lands; notice; publication.

3858. Patents for non-mineral lands adjacent to claim; limit of area; price; patents for mill sites.

3859. Rules for working, etc., of mines, easements, etc., may be made conditions of sale; bond of deputy mineral surveyor.

3860. Water rights recognized by local customs, laws, and decisions of courts confirmed; rights of ways for ditches and canals; compensation for injuries.

3861. Patents to be subject to vested water, ditch, and reservoir rights.

3862. Land districts authorized.

3863. Coal lands; who may enter; limit of area; price; entries in conformity with rules of survey.
THE TERRITORIES AND INSULAR POSSESSIONS  *(Tit. 23)*

Sec. 3882. Use of funds from sale of bonds.

Sec. 3883. Taxes and sinking fund for the payment of bonds; reimbursement of government by city for payments thereon.

**FRANCHISES**

3884. Grant of franchises; privileges and concessions authorized; conditions of grants; slavery prohibited; penalty.

3885. Corporations not to engage in real estate business; ownership of real estate restricted; maximum area of agricultural corporation; real estate loans by corporations authorized; foreign corporations subject to provisions.

3886. Philippine coinage; mint at Manila.

3887. Subsidiary silver coins.

3888. Minor coins; legal tender.

3889. Purchase of metal.

3890. Place of coinage.

3891. Devices and inscriptions.

3892. Redemption and reissue of worn or defective coins; execution of provisions of act.

3893. Philippine coinage; unit of value; legal tender.

3894. Silver peso.

3895. Legal tender.

3896. Purchase of silver bullion; recoinage of silver coins; legal tender.

3897. Application of previous provisions to coinage authorized by act; maintenance of parity between silver peso and gold peso; issuance of temporary certificates of indebtedness, redemption thereof, and use of proceeds.

3898. Silver coins previously in use receivable for public dues for limited time; preference to silver pesos and silver certificates.

3899. Silver certificates to be issued on deposit of silver pesos and to be receivable for public dues; reissue; lawful reserve of banking associations; substitution of United States gold coin for silver pesos deposited.

3900. Purchase of metal.

3901. Place of coinage.

3902. Devices and inscriptions.

3903. Preparation of drawings, designs, and plates, and execution of coinage, engraving, or printing of notes and certificates.

3904. Change in weight and fineness of silver coins authorized.

3905. Application of laws relating to shipping, customs duties, seamen, health, etc., to vessels making voyages between the Philippine Islands and the United States, vessels and goods arriving from said islands, seamen on voyages going to said islands, etc.; application of laws concerning transit of merchandise through the United States, to merchandise destined to any of its possessions or from them to foreign countries; effect of act on previous provisions.

3906. Right to annul laws reserved by Congress; report by Commission to Secretary of War.

3907. Philippine government bonds exempt from taxation.

3908. Issuance of Philippine government bonds for public improvements authorized; maximum amount; approval of President required.

3909. Government authorized to guarantee railroad bonds; contract of guarantee; signature; provisions; contract indorsed upon bonds; execution restricted; lien for payments made by government; limitation of amount of guarantee; supervision over railroads; appointment of directors; reports by railroads; original jurisdiction of supreme court over guaranty contract; law relating to franchises applicable.

3910. Railroad material may be admitted free of duty.

3911. Administration of immigration laws in force in Philippine Islands.

3912. Government of Philippine Islands authorised temporarily to regulate transportation of merchandise and passengers between ports, etc., in Philippine Archipelago.

3913. Restrictions of transportation of passengers and merchandise between ports of United States not applicable to foreign vessels engaging in trade between Phil-
§ 3804. (Act July 1, 1902, c. 1369, § 1.) Establishment of civil government ratified; enacting clause of laws passed by Philippine Commission; United States constitution and laws not to apply; appointments of civil officers.

The action of the President of the United States in creating the Philippine Commission and authorizing said Commission to exercise the powers of government to the extent and in the manner and form and subject to the regulation and control set forth in the instructions of the President to the Philippine Commission, dated April seventh, nineteen hundred, and in creating the offices of civil governor and vice-governor of the Philippine Islands, and authorizing said civil governor and vice-governor to exercise the powers of government to the extent and in the manner and form set forth in the Executive order dated June twenty-first, nineteen hundred and one, and in establishing four executive departments of government in said Islands as set forth in the Act of the Philippine Commission, entitled "An Act providing an organization for the departments of the interior, of commerce and police, of finance and justice, and of public instruction," enacted September sixth, nineteen hundred and one, is hereby approved, ratified, and confirmed, and until otherwise provided by law the said Islands shall continue to be governed as thereby and herein provided, and all laws passed hereafter by the Philippine Commission shall have an enacting clause as follows: "By authority of the United States be it enacted by the Philippine Commission." The provisions of section eighteen hundred and ninety-one of the Revised Statutes of eighteen hundred and seventy-eight shall not apply to the Philippine Islands.

Future appointments of civil governor, vice-governor, members of said Commission and heads of executive departments shall be made by the President, by and with the advice and consent of the Senate. (32 Stat. 691.)

This was the first section of an act entitled "An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes."

Section 2 of this act ratified the tariff established by order of the President, with a proviso that the section should not be construed to amend or repeal Act March 8, 1902, c. 140, 32 Stat. 54. This section and said act of March 8, 1902 in so far as it established the Philippine tariff, were superseded by subsequent Philippine tariff acts, Act March 3, 1906, c. 1408, 33 Stat. 928, Act Feb. 26, 1906, c. 509, 34 Stat. 24, and Act Aug. 5, 1908, c. 6, 36 Stat. 84.

Section 10 of this act provided for appeals and writs of error from the Philippine supreme court to the United States Supreme Court. It was superseded by Jud. Code, § 248, ante, § 1215.

Section 78 of this act, relating to the purchase of bullion for coinage and
§ 3804. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

making subsidiary coins legal tender, was repealed by Act March 2, 1903, c. 589, § 13, 32 Stat. 905.

Section 55 of the act provided for depositories of public moneys in the Philippine Islands. It is set forth post, § 6531.

Section 57 of the act established the Bureau of Insular Affairs in the War Department. It is set forth ante, § 345.

Section 58 of the act repealed all acts and parts of acts inconsistent with the act.

The other sections of the act are set forth in this chapter.

This act superseded the provisions vesting the military, civil, and judicial powers necessary to govern the Philippine Islands, until otherwise provided by Congress in such person and persons, to be exercised in such manner, with certain restrictions, as the President should direct, of Act March 2, 1901, c. 803, 31 Stat. 810.

R. S. § 1301, mentioned in this section, which provided that the constitution and all laws of the United States should have the same force in every territory thereafter organized, is set forth ante, § 3522.

The civil governor was to be known as the governor-general of the Philippine Islands by Act Feb. 6, 1905, c. 453, § 8, post, § 3806.

The number of Commissioners was increased by one and the creation of a new executive department authorized by Act May 11, 1906, c. 164, post, §§ 8806, 3807.


The provisions of R. S. § 1014, ante, § 1674, relating to the removal of offenders against the United States, were made applicable to the removal of such offenders from the United States to the Philippine Islands or from the islands to the United States by Act Feb. 9, 1903, c. 529, § 1, ante, § 1675.

The provisions of R. S. §§ 5278, 5279, post, §§ 10126, 10127, relating to the extradition of fugitives from justice from a State or Territory, were made applicable to the Philippine Islands, which were to be deemed a Territory within those provisions, by Act Feb. 9, 1903, c. 529, § 2, post, § 10128.

The provisions of R. S. §§ 5270–5277, post, §§ 10110–10123, relating to extradition to or from a foreign country, were made applicable to extradition to or from the Philippine Islands and a foreign country by Act Feb. 6, 1905, c. 454, post, §§ 10124, 10125.

The acknowledgment of deeds affecting lands in the District of Columbia, or in any Territory of the United States, before a notary public or similar officer in the Philippine Islands, was authorized, provided the certificate of the notary was accompanied by a certificate of the governor or attorney-general of the islands of his official character, by Act March 22, 1902, c. 275, ante, § 3260.

§ 3805. (Act Feb. 6, 1905, c. 453, § 8.) Title of civil governor.

The civil governor of the Philippine Islands shall hereafter be known as the governor-general of the Philippine Islands. (33 Stat. 692.)

This section was part of an act amending Act July 1, 1902, c. 1389, and for other purposes.

Other sections of this act are set forth or referred to post, §§ 3819, 3907–3911.

§ 3806. (Act May 11, 1908, c. 164, § 1.) Additional member for Philippine Commission.

The number of Commissioners constituting the Philippine Commission is hereby increased by one additional member, making the Commission consist of nine members. Said additional member shall be appointed by the President, by and with the advice and consent (1530)
of the Senate, and shall receive the same salary and emoluments as is now, or may hereafter, be prescribed by law. (35 Stat. 125.)

This section and the section next following were an act entitled "An act to increase the membership of the Philippine Commission by one member, and for other purposes."

§ 3807. (Act May 11, 1908, c. 164, § 2.) Creation of new executive department by President authorized.

The President is hereby authorized in his discretion to create by Executive order, and name, a new executive department in the Philippine government, and to embrace therein such existing bureaus as he may designate in the order; and in his appointment of any commission member he shall specify in his message to the Senate the department, if any, of which the appointee shall be the secretary. (35 Stat. 125.)

§ 3808. (Act July 1, 1902, c. 1369, § 3.) Regulation of commercial intercourse during insurrection.

The President of the United States, during such time as and whenever the sovereignty and authority of the United States encounter armed resistance in the Philippine Islands, until otherwise provided by Congress, shall continue to regulate and control commercial intercourse with and within said Islands by such general rules and regulations as he, in his discretion, may deem most conducive to the public interests and the general welfare. (32 Stat. 692.)

§ 3809. (Act July 1, 1902, c. 1369, § 4, as amended, Act March 23, 1912, c. 65.) Philippine citizenship; extension of right to citizenship by legislature authorized.

All inhabitants of the Philippine Islands continuing to reside therein who were Spanish subjects on the eleventh day of April, eighteen hundred and ninety-nine, and then resided in said islands, and their children born subsequent thereto, shall be deemed and held to be citizens of the Philippine Islands and as such entitled to the protection of the United States, except such as shall have elected to preserve their allegiance to the Crown of Spain in accordance with the provisions of the treaty of peace between the United States and Spain signed at Paris December tenth, eighteen hundred and ninety-eight: Provided, That the Philippine Legislature is hereby authorized to provide by law for the acquisition of Philippine citizenship by those natives of the Philippine Islands who do not come within the foregoing provisions, the natives of other insular possessions of the United States, and such other persons residing in the Philippine Islands who could become citizens of the United States under the laws of the United States if residing therein. (32 Stat. 692. 37 Stat. 77.)

This section, as originally enacted, did not contain the proviso at the end thereof, for extension of the right of citizenship. Said proviso was added by amendment by Act March 23, 1912, c. 65, last cited above.

(1531)
§ 3810. (Act July 1, 1902, c. 1369, § 5.) Declaration of rights.

No law shall be enacted in said islands which shall deprive any person of life, liberty, or property without due process of law, or deny to any person therein the equal protection of the laws.

In all criminal prosecutions the accused shall enjoy the right to be heard by himself and counsel, to demand the nature and cause of the accusation against him, to have a speedy and public trial, to meet the witnesses face to face, and to have compulsory process to compel the attendance of witnesses in his behalf.

No person shall be held to answer for a criminal offense without due process of law; and no person for the same offense shall be twice put in jeopardy of punishment, nor shall be compelled in any criminal case to be a witness against himself.

All persons shall before conviction be bailable by sufficient sureties, except for capital offenses.

No law impairing the obligation of contracts shall be enacted.

No person shall be imprisoned for debt.

The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion, insurrection, or invasion the public safety may require it, in either of which events the same may be suspended by the President, or by the governor, with the approval of the Philippine Commission, wherever during such period the necessity for such suspension shall exist.

No ex post facto law or bill of attainder shall be enacted.

No law granting a title of nobility shall be enacted, and no person holding any office of profit or trust in said islands, shall, without the consent of the Congress of the United States, accept any present, emolument, office, or title of any kind whatever from any king, queen, prince, or foreign State.

Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishment inflicted.

The right to be secure against unreasonable searches and seizures shall not be violated.

Neither slavery, nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist in said islands.

No law shall be passed abridging the freedom of speech or of the press, or the right of the people peaceably to assemble and petition the Government for redress of grievances.

No law shall be made respecting an establishment of religion or prohibiting the free exercise thereof, and the free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall forever be allowed.

No money shall be paid out of the treasury except in pursuance of an appropriation by law.

The rule of taxation in said islands shall be uniform.

No private or local bill which may be enacted into law shall embrace more than one subject, and that subject shall be expressed in the title of the bill.

No warrant shall issue but upon probable cause, supported by
oath or affirmation, and particularly describing the place to be searched and the person or things to be seized.

All money collected on any tax levied or assessed for a special purpose shall be treated as a special fund in the treasury and paid out for such purpose only. (32 Stat. 693.)

No person can be convicted of treason, except by the testimony of two witnesses to the same overt act, or on confession in open court, by Act March 8, 1902, c. 140, § 9, post, § 3811.

§ 3811. (Act March 8, 1902, c. 140, § 9.) Evidence necessary to convict of treason.

No person in the Philippine Islands shall, under the authority of the United States, be convicted of treason by any tribunal, civil or military, unless on the testimony of two witnesses to the same overt act, or on confession in open court. (32 Stat. 55.)

This section was part of an act temporarily to provide revenue for the Philippine Islands, and for other purposes, cited above.

§ 3812. (Act July 1, 1902, c. 1369, § 6.) Philippine census; contents of report; assistance of Census Bureau.

Whenever the existing insurrection in the Philippine Islands shall have ceased and a condition of general and complete peace shall have been established therein and the fact shall be certified to the President by the Philippine Commission, the President, upon being satisfied thereof, shall order a census of the Philippine Islands to be taken by said Philippine Commission; such census in its inquiries relating to the population shall take and make so far as practicable full report for all the inhabitants, of name, age, sex, race, or tribe, whether native or foreign born, literacy in Spanish, native dialect or language, or in English, school attendance, ownership of homes, industrial and social statistics, and such other information separately for each island, each province, and municipality, or other civil division, as the President and said Commission may deem necessary: Provided, That the President may, upon the request of said Commission, in his discretion, employ the service of the Census Bureau in compiling and promulgating the statistical information above provided for, and may commit to such Bureau any part or portion of such labor as to him may seem wise. (32 Stat. 693.)

So much of the unexpended balance of the appropriation for the Twelfth Census was made available for the taking of the Philippine Census under the proclamation of the President, dated September 30, 1902, pursuant to the provisions of this section, by a provision of the deficiency appropriation act for the fiscal year 1908, Act March 3, 1908, c. 1006, 32 Stat. 1069.

§ 3813. (Act July 1, 1902, c. 1369, § 7, as amended, Act Feb. 27, 1909, c. 227.) Philippine assembly; election of members; to constitute, with Commission, the legislature; number of members; apportionment and notice; regulation of elections of members; qualifications of electors; term of office of members; qualifications of members; annual sessions of legislature; failure to make necessary appropriations; special sessions; powers and procedure of assembly.

Two years after the completion and publication of the census, in
case such condition of general and complete peace with recognition of the authority of the United States shall have continued in the territory of said Islands not inhabited by Moros or other non-Christian tribes and such facts shall have been certified to the President by the Philippine Commission, the President upon being satisfied thereof shall direct said Commission to call, and the Commission shall call, a general election for the choice of delegates to a popular assembly of the people of said territory in the Philippine Islands, which shall be known as the Philippine assembly. After said assembly shall have convened and organized, all the legislative power heretofore conferred on the Philippine Commission in all that part of said Islands not inhabited by Moros or other non-Christian tribes shall be vested in a legislature consisting of two houses—the Philippine Commission and the Philippine assembly. Said assembly shall consist of not less than fifty nor more than one hundred members to be apportioned by said Commission among the provinces as nearly as practicable according to population: Provided, That no province shall have less than one member: And provided further, That provinces entitled by population to more than one member may be divided into such convenient districts as the said Commission may deem best.

Public notice of such division shall be given at least ninety days prior to such election, and the election shall be held under rules and regulations to be prescribed by law. The qualification of electors in such election shall be the same as is now provided by law in case of electors in municipal elections. * * No person shall be eligible to such election who is not a qualified elector of the election district in which he may be chosen, owing allegiance to the United States, and twenty-five years of age.

The legislature shall hold annual sessions, commencing on the first Monday of February in each year and continuing not exceeding ninety days thereafter (Sundays and holidays not included) and the first meeting of the legislature shall be held upon the call of the governor within ninety days after the first election: Provided, That the Philippine Legislature after its first meeting as herein provided may by law fix a date other than the first Monday of February in each year for the commencement of its annual sessions: And provided further, That if at the termination of any session the appropriations necessary for the support of government shall not have been made, an amount equal to the sums appropriated in the last appropriation bills for such purposes shall be deemed to be appropriated; and until the legislature shall act in such behalf the treasurer may, with the advice of the governor, make the payments necessary for the purposes aforesaid.

The legislature may be called in special session at any time by the civil governor for general legislation, or for action on such specific subjects as he may designate. No special session shall continue longer than thirty days, exclusive of Sundays.

The assembly shall be the judge of the elections, returns, and
qualifications of its members. A majority shall constitute a quorum to do business, but a smaller number may adjourn from day to day and may be authorized to compel the attendance of absent members. It shall choose its speaker and other officers, and the salaries of its members and officers shall be fixed by law. It may determine the rule of its proceedings, punish its members for disorderly behavior, and with the concurrence of two-thirds expel a member. It shall keep a journal of its proceedings, which shall be published, and the yeas and nays of the members on any question shall, on the demand of one-fifth of those present, be entered on the journal. (32 Stat. 693. 35 Stat. 659.)

This section, as originally enacted, did not contain the proviso, in the third paragraph thereof, authorizing the legislature to fix a date other than the first Monday in February for the commencement of its annual sessions. Said proviso was inserted by amendment by Act Feb. 27, 1900, c. 227, last cited above.

The portion of this section omitted here provided that the members of the assembly should hold office for two years from the first day of January following their election, and their successors should be chosen every second year thereafter. It was superseded by provisions fixing the term at four years, beginning October 16 next following their election, contained in Act Feb. 15, 1911, c. 81, § 1, post, § 3814.

The legislature was required, at its next regular session, to fix the date for the commencement of its annual sessions, by a further provision of said Act Feb. 15, 1911, c. 81, § 1, post, § 3814.

This was the first section of an act entitled "An act providing for the quadrennial election of members of the Philippine assembly and resident commissioners to the United States, and for other purposes."

Section 2 of said act, relating to the term of resident commissioners, is set forth post, § 3816.

Section 3 repealed all acts inconsistent therewith so far and so far only, as they conflicted with the provisions of the act.

§ 3814. (Act Feb. 15, 1911, c. 81, § 1.) Members of assembly to hold office four years; date of commencement of annual session of legislature to be fixed.

The present members of the Philippine Assembly shall hold office until the sixteenth day of October, anno Domini nineteen hundred and twelve, and their successors shall be chosen by the people in the year nineteen hundred and twelve, and in every fourth year thereafter, and shall hold office for four years beginning on the sixteenth day of October next following their election. At its next regular session after the passage of this Act the Philippine Legislature shall fix the date for the commencement of its annual sessions. (36 Stat. 910.)

This section superseded provisions, fixing the term of members of the assembly at two years from the first day of January next following their election, of Act July 1, 1902, c. 1369, § 7, ante, § 3813.

§ 3815. (Act July 1, 1902, c. 1369, § 8.) Resident commissioners to the United States; rights; selection; compensation; qualifications.

At the same time with the first meeting of the Philippine legislature, and [biennially] thereafter, there shall be chosen by said
legislature, each house voting separately, two resident commissioners to the United States, who shall be entitled to an official recognition as such by all departments upon presentation to the president of a certificate of election by the civil governor of said islands, and each of whom shall be entitled to a salary payable monthly by the United States at the rate of [five thousand dollars] per annum, and two thousand dollars additional to cover all expenses: Provided, That no person shall be eligible to such election who is not a qualified elector of said islands, owing allegiance to the United States, and who is not thirty years of age. (32 Stat. 694.)

The word "biennially," inclosed in brackets in this section, was superseded by provisions for the quadrennial election of resident commissioners, contained in Act Feb. 15, 1911, c. 81, § 2, post, § 3816.

The words "five thousand dollars," also inclosed in brackets in this section, were superseded by the provision that each of the resident commissioners should receive the same salary as the resident commissioner from Porto Rico, contained in Act May 22, 1908, c. 186, § 1, post, § 3817.

The salary of the resident commissioner from Porto Rico was fixed at $7,500 per annum by Act Feb. 26, 1907, c. 1635, § 4, ante, § 36.

§ 3816. (Act Feb. 15, 1911, c. 81, § 2.) Term of resident commissioners to be four years; commencement of term; stationery and clerk hire for resident commissioners; franking privilege.

The present Resident Commissioners shall hold office until their successors shall have been duly elected and qualified. Their successors may be elected by the present Philippine Legislature, and if so elected shall hold office until March fourth, nineteen hundred and thirteen. At the regular session beginning in nineteen hundred and twelve, and quadrennially thereafter, the Philippine Legislature shall in the manner now provided by law elect two Resident Commissioners to the United States, each of whom shall hold office for the term of four years beginning upon the fourth day of March next ensuing his election. Each of said Resident Commissioners shall, in addition to the salary and expenses now allowed by law, be allowed the same sum for stationery and for the pay of necessary clerk hire as is now allowed to the Members of the House of Representatives of the United States, and the franking privilege now enjoyed by Members of the House of Representatives. (36 Stat. 910.)

This section superseded previous provisions for the biennial election of resident commissioners, contained in Act July 1, 1902, c. 1308, § 8, ante, § 3815.

§ 3817. (Act May 22, 1908, c. 186, § 1.) Salary of resident commissioners.

The salary of each of the Resident Commissioners from the Philippine Islands shall be the same as that of the Resident Commissioner from Porto Rico. (35 Stat. 188.)

This was a provision of the legislative, executive and judicial appropriation act for the fiscal year 1908, cited above.

It superseded the provision fixing the salary of the resident commissioner at $5,000 per annum, contained in Act July 1, 1902, c. 1308, § 8, ante, § 3815.

The salary of the resident commissioner from Porto Rico was fixed at $7,500 per annum by Act Feb. 26, 1907, c. 1635, § 4, ante, § 36.

(1536)
§ 3818. (Act July 1, 1902, c. 1369, § 9.) Jurisdiction of supreme court and courts of first instance; of municipal courts; appointment and compensation of justices of supreme court; appointment of judges of court of first instance; admiralty jurisdiction changed only by act of Congress.

The Supreme Court and the courts of first instance of the Philippine Islands shall possess and exercise jurisdiction as heretofore provided and such additional jurisdiction as shall hereafter be prescribed by the government of said Islands, subject to the power of said Government to change the practice and method of procedure. The municipal courts of said Islands shall possess and exercise jurisdiction as heretofore provided by the Philippine Commission, subject in all matters to such alteration and amendment as may be hereafter enacted by law; and the chief justice and associate justices of the supreme court shall hereafter be appointed by the President, by and with the advice and consent of the Senate, and shall receive the compensation heretofore prescribed by the Commission until otherwise provided by Congress. The judges of the court of first instance shall be appointed by the civil governor, by and with the advice and consent of the Philippine Commission: Provided, That the admiralty jurisdiction of the supreme court and courts of first instance shall not be changed except by Act of Congress. (32 Stat. 695.)

The compensation of the supreme court justices was fixed and provision was made for the designation of a temporary judge when necessary to constitute a quorum by Act Feb. 6, 1905, c. 453, § 7, post, § 3819.

The supreme court was authorized to hold a special term or terms each year at Pagsan or at any other suitable place by Res. April 9, 1910, No. 19, post, § 3820.

§ 3819. (Act Feb. 6, 1905, c. 453, § 7.) Compensation of supreme court justices; temporary justice to fill vacancy; designation; compensation.

The government of the Philippine Islands is hereby authorized to prescribe the compensation for the chief justice and associate justices of the supreme court of the islands, not to exceed ten thousand five hundred dollars for the chief justice and ten thousand dollars for each associate justice per annum. Whenever by reason of temporary disability of any judge of the supreme court or by reason of vacancies occurring therein, a quorum of the court shall not be present for business the governor-general of said islands is authorized to designate a judge or judges of the court of first instance in the islands to sit and act temporarily as a judge or judges of the supreme court in order to constitute a quorum of said supreme court for business. If a judge so designated shall not have his usual place of residence at the city of Manila, he shall be allowed his traveling expenses from his usual place of residence to Manila and return and the sum of ten pesos, Philippine currency, a day for the period during which he is engaged in the supreme court,

Comp. St. '13—97 (1537)
§ 3819 THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

the period to be calculated from the time he leaves his usual place of residence until his return from Manila. (33 Stat. 692.)

This section was part of an act to amend Act July 1, 1902, c. 1369, and for other purposes.

Other sections of this act are set forth or referred to post, §§ 3807-3911, and ante, § 3806.

Section 10 of Act July 1, 1902, c. 1369, providing for appeals and writs of error from the Philippine supreme court to the United States Supreme Court, was superseded by Jud. Code, § 248, ante, § 1225.

§ 3820. (Res. April 9, 1910, No. 19.) Supreme court; special term at Baguio, or elsewhere, authorized.

The supreme court of the Philippine Islands is authorized to hold such special term or terms in each year at Baguio, in the Province of Benguet, or at any other suitable place in the Philippine Islands, as may be provided by order of the court, and to make such orders with reference to the transfer of records and the issuing of process as shall be necessary to make the orders, decrees, and judgments entered by the court in such special term or terms effective. (36 Stat. 877.)

This was a joint resolution entitled, "Joint resolution fixing the terms of court in the Philippine Islands."

§ 3821. (Act July 1, 1902, c. 1369, § 11.) Improvement of navigable waters; construction of wharves, light-houses, life-saving stations, etc.; bonded warehouses.

The government of the Philippine Islands is hereby authorized to provide for the needs of commerce by improving the harbors and navigable waters of said islands and to construct and maintain in said navigable waters and upon the shore adjacent thereto bonded warehouses, wharves, piers, light-houses, signal and life-saving stations, buoys, and like instruments of commerce, and to adopt and enforce regulations in regard thereto, including bonded warehouses wherein articles not intended to be imported into said islands nor mingled with the property therein, but brought into a port of said islands for reshipment to another country, may be deposited in bond and reshipped to another country without the payment of customs duties or charges. (32 Stat. 695.)

§ 3822. (Act July 1, 1902, c. 1369, § 12.) Property acquired by United States from Spain to be under control of insular government.

All the property and rights which may have been acquired in the Philippine Islands by the United States under the treaty of peace with Spain, signed December tenth, eighteen hundred and ninety-eight, except such land or other property as shall be designated by the President of the United States for military and other reservations of the Government of the United States, are hereby placed under the control of the government of said islands to be administered for the benefit of the inhabitants thereof, except as provided in this Act. (32 Stat. 695.)

(1538)
§ 3823. (Act July 1, 1902, c. 1369, § 13.) Classification of public lands; rules and regulations for disposition; mineral and timber lands excepted; rules to be approved by President and submitted to Congress; limit of area of homestead.

The government of the Philippine Islands, subject to the provisions of this Act and except as herein provided, shall classify according to its agricultural character and productiveness, and shall immediately make rules and regulations for the lease, sale, or other disposition of the public lands other than timber or mineral lands, but such rules and regulations shall not go into effect or have the force of law until they have received the approval of the President and when approved by the President they shall be submitted by him to Congress at the beginning of the next ensuing session thereof and unless disapproved or amended by Congress at said session they shall at the close of such period have the force and effect of law in the Philippine Islands: Provided, That a single homestead entry shall not exceed sixteen hectares in extent. (32 Stat. 695.)

§ 3824. (Act July 1, 1902, c. 1369, § 14.) Rules for perfecting titles of claimants from Spain; issuance of patents to native occupants.

The government of the Philippine Islands is hereby authorized and empowered to enact rules and regulations and to prescribe terms and conditions to enable persons to perfect their title to public lands in said Islands, who, prior to the transfer of sovereignty from Spain to the United States, had fulfilled all or some of the conditions required by the Spanish laws and royal decrees of the Kingdom of Spain for the acquisition of legal title thereto and failed to secure conveyance of title; and the Philippine Commission is authorized to issue patents, without compensation, to any native of said Islands, conveying title to any tract of land not more than sixteen hectares in extent, which were public lands and had been actually occupied by such native or his ancestors prior to and on the thirteenth of August, eighteen hundred and ninety-eight. (32 Stat. 696.)

§ 3825. (Act July 1, 1902, c. 1369, § 15.) Grant of lands, other than timber or mineral lands, authorized; limit of area; conditions.

The government of the Philippine Islands is hereby authorized and empowered, on such terms as it may prescribe, by general legislation, to provide for the granting or sale and conveyance to actual occupants and settlers and other citizens of said islands such parts and portions of the public domain, other than timber and mineral lands, of the United States in said islands as it may deem wise, not exceeding sixteen hectares to any one person and for the sale and conveyance of not more than one thousand and twenty-four hectares to any corporation or association of persons: Provided, That the grant or sale of such lands, whether the purchase price be paid at once or in partial payments, shall be conditioned
§ 3826. Preference right of settlers; right of native occupants; limit of area of settler's preference right.

In granting or selling any part of the public domain under the provisions of the last preceding section, preference in all cases shall be given to actual occupants and settlers; and such public lands of the United States in the actual possession or occupancy of any native of the Philippine Islands shall not be sold by said government to any other person without the consent thereto of said prior occupant or settler first had and obtained: Provided, That the prior right hereby secured to an occupant of land, who can show no other proof of title than possession, shall not apply to more than sixteen hectares in any one tract. (32 Stat. 696.)

§ 3827. Preservation of forests; use of revenues from public lands.

Timber, trees, forests, and forest products on lands leased or demised by the government of the Philippine Islands under the provisions of this Act shall not be cut, destroyed, removed, or appropriated except by special permission of said government and under such regulations as it may prescribe.

All moneys obtained from lease or sale of any portion of the public domain or from licenses to cut timber by the government of the Philippine Islands shall be covered into the insular treasury and be subject only to appropriation for insular purposes according to law. (32 Stat. 696.)

§ 3828. Forest laws and regulations continued in force; lands reserved unless certified by forestry bureau to be agricultural; licenses to cut timber, etc.

The forest laws and regulations now in force in the Philippine Islands, with such modifications and amendments as may be made by the government of said islands, are hereby continued in force, and no timber lands forming part of the public domain shall be sold, leased, or entered until the government of said islands, upon the certification of the forestry bureau that said lands are more valuable for agriculture than for forest uses, shall declare such lands so certified to be agricultural in character: Provided, That the said government shall have the right and is hereby empowered to issue licenses to cut, harvest, or collect timber or other forest products on reserved or unreserved public lands in said islands in accordance with the forest laws and regulations hereinbefore mentioned and under the provisions of this Act, and the said government may lease land to any person or persons holding such licenses, sufficient for a mill site, not to exceed four hectares in extent, and may
grant rights of way to enable such person or persons to get access to the lands to which such licenses apply. (32 Stat. 696.)

§ 3829. (Act July 1, 1902, c. 1369, § 19.) Beneficial use measure of water rights; rules and regulations for use of water authorized; reservations for protection of water supply and other public purposes.

The beneficial use shall be the basis, the measure, and the limit of all rights to water in said islands, and the government of said islands is hereby authorized to make such rules and regulations for the use of water, and to make such reservations of public lands for the protection of the water supply, and for other public purposes not in conflict with the provisions of this Act, as it may deem best for the public good. (32 Stat. 697.)

MINERAL LANDS

§ 3830. (Act July 1, 1902, c. 1369, § 20.) Mineral lands reserved from sale except as expressly directed.

In all cases public lands in the Philippine Islands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law. (32 Stat. 697.)

§ 3831. (Act July 1, 1902, c. 1369, § 21.) Mineral deposits and lands open to purchase by citizens of United States or of Philippines; lands entered as agricultural to be paid for as mineral when minerals are found thereon before patent.

All valuable mineral deposits in public lands in the Philippine Islands, both surveyed and unsurveyed, are hereby declared to be free and open to exploration, occupation, and purchase, and the land in which they are found to occupation and purchase, by citizens of the United States, or of said Islands: Provided, that when on any lands in said islands entered and occupied as agricultural lands under the provisions of this Act, but not patented, mineral deposits have been found, the working of such mineral deposits is hereby forbidden until the person, association, or corporation who or which has entered and is occupying such lands shall have paid to the government of said islands such additional sum or sums as will make the total amount paid for the mineral claim or claims in which said deposits are located equal to the amount charged by the government for the same as mineral claims. (32 Stat. 697.)

§ 3832. (Act July 1, 1902, c. 1369, § 22, as amended, Act Feb. 6, 1905, c. 453, § 9.) Location of mineral claims; dimensions; shape.

That mining claims upon land containing veins or lodes of quartz or other rock in place-bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits located after the passage of this Act, whether located by one or more persons qualified to locate the same under the preceding section, shall be located in the following manner and under the following conditions: Any person so qualified desiring to locate a mineral claim shall, subject to the provisions of this Act with respect to land which may be used for

(1541)
§ 3832  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

mining, enter upon the same and locate a plat of ground measuring, where possible, but not exceeding three hundred meters in length by three hundred meters in breadth, in as nearly as possible a rectangular form; that is to say, all angles shall be right angles, except in cases where a boundary line of a previously surveyed claim is adopted as common to both claims, but the lines need not necessarily be meridional. In defining the size of a mineral claim it shall be measured horizontally, irrespective of inequalities of the surface of the ground. (32 Stat. 697. 33 Stat. 692.)

This section, and also sections 23-25, 29, 31, 36, 37, 39, 53 and 58 of this act, were amended by Act Feb. 4, 1905, c. 453, § 9, cited above, by reducing all measurements therein expressed in feet to meters, acres to hectares, miles to kilometers, and dollars to pesos; the specific changes being the fixing of the length and breadth of the claims at 300 meters instead of 1,000 feet, requiring annual labor of the value of 200 pesos instead of $100, and labor or improvements before patent of the value of 1,000 pesos instead of $500, fixing the price of lode mining claims at 25 pesos per hectare instead of $5 per acre, the price of coal lands at 50 pesos per hectare if more than 25 kilometers from, or 100 pesos per hectare if within 25 kilometers of, a railroad or navigable water, instead of $25 per hectare if more than 15 miles from, or $50 per hectare if within 15 miles of, a railroad or navigable water, and the price of saline lands at 6 pesos per hectare instead of $3 per hectare.


A mineral claim shall be marked by two posts, placed as nearly as possible on the line of the ledge or vein, and the posts shall be numbered one and two, and the distance between posts numbered one and two shall not exceed three hundred meters, the line between posts numbered one and two to be known as the location line; and upon posts numbered one and two shall be written the name given to the mineral claim, the name of the locator, and the date of the location. Upon post numbered one there shall be written, in addition to the foregoing, “Initial post,” the approximate compass bearing of post numbered two, and a statement of the number of meters lying to the right and to the left of the line from post numbered one to post numbered two, thus: “Initial post. Direction of post numbered two . . . meters of this claim lie on the right and . . . meters on the left of the line from number one to number two post.” All the particulars required to be put on number one and number two posts shall be furnished by the locator to the provincial secretary, or such other officer as by the Philippine government may be described as mining recorder, in writing, at the time the claim is recorded, and shall form a part of the record of such claim. (32 Stat. 697. 33 Stat. 693.)

See note to section 22 of this act, ante, § 3832.

§ 3834. (Act July 1, 1902, c. 1369, § 24, as amended, Act Feb. 6, 1905, c. 453, § 9.) Marking location line and discovery post; guides for survey.

When a claim has been located the holder shall immediately mark the line between posts numbered one and two so that it can be distinctly seen. The locator shall also place a post at the point where he has found minerals in place, on which shall be written (1542)
"Discovery:") Provided, That when the claim is surveyed the surveyor shall be guided by the records of the claim, the sketch plan on the back of the declaration made by the owner when the claim was recorded, posts numbered one and two, and the notice on number one, the initial post.

Examples of Various Modes of Laying Out Claims

1. 

No. 2 post.

150 meters. 150 m.

Discovery post.

150 m. 150 m.

No. 1 post.

2. 

No. 2 post.

100 m. 200 m.

Discovery post.

100 m. 200 m.

No. 1 post.

3. 

No. 2 post.

225 m. 75 m.

Discovery post.

225 m. 75 m.

No. 1 post.

(32 Stat. 698. 33 Stat. 693.)

See note to section 22 of this act, ante, § 3832.

§ 3835. (Act July 1, 1902, c. 1369, § 25, as amended, Act Feb. 6, 1905, c. 453, § 9.) Moving of posts by surveyor.

It shall not be lawful to move number one post, but number two post may be moved by the deputy mineral surveyor when the distance between posts numbered one and two exceeds three hundred meters, in order to place number two post three hundred meters from number one post on the line of location. When the distance between posts numbered one and two is less than three hundred meters, the deputy mineral surveyor shall have no authority to extend the claim beyond number two. (32 Stat. 698. 33 Stat. 693.)

See note to section 22 of this act, ante, § 3832.

§ 3836. (Act July 1, 1902, c. 1369, § 26.) Location line to govern direction.

The "location line" shall govern the direction of one side of the claim, upon which the survey shall be extended according to this Act. (32 Stat. 698.)

§ 3837. (Act July 1, 1902, c. 1369, § 27.) Rights to minerals; no extralateral rights.

The holder of a mineral claim shall be entitled to all minerals which may lie within his claim, but he shall not be entitled to mine outside the boundary lines of his claim continued vertically downward: Provided, That this Act shall not prejudice the rights of claim owners nor claim holders whose claims have been located under existing laws prior to this Act. (32 Stat. 698.)

(1543)
§ 3838. (Act July 1, 1902, c. 1369, § 28.) Recording full size claim; affidavit; description and markings of claim.

No mineral claim of the full size shall be recorded without the application being accompanied by an affidavit made by the applicant or some person on his behalf cognizant of the facts—that the legal notices and posts have been put up; that mineral has been found in place on the claim proposed to be recorded; that the ground applied for is unoccupied by any other person. In the said declaration shall be set out the name of the applicant and the date of the location of the claim. The words written on the number one and number two posts shall be set out in full, and as accurate a description as possible of the position of the claim given with reference to some natural object or permanent monuments. (32 Stat. 699.)

§ 3839. (Act July 1, 1902, c. 1369, § 29, as amended, Act Feb. 6, 1905, c. 453, § 9.) Recording fractional claim; affidavit or declaration; plan; effect of failure to comply with requirements.

No mineral claim which, at the date of its record, is known by the locater to be less than a full-sized mineral claim, shall be recorded without the word "fraction" being added to the name of the claim, and the application being accompanied by an affidavit or solemn declaration made by the applicant or some person on his behalf cognizant of the facts: That the legal posts and notices have been put up; that mineral has been found in place on the fractional claim proposed to be recorded; that the ground applied for is unoccupied by any other person. In the said declaration shall be set out the name of the applicant and the date of the location of the claim. The words written on the posts numbered one and two shall be set out in full and as accurate a description as possible of the position of the claim given. A sketch plan shall be drawn by the applicant on the back of the declaration, showing as near as may be the position of the adjoining mineral claims and the shape and size, expressed in meters, of the claim or fraction desired to be recorded: Provided, That the failure on the part of the locater of a mineral claim to comply with any of the foregoing provisions of this section shall not be deemed to invalidate such location if, upon the facts, it shall appear that such locater has actually discovered mineral in place on said location and that there has been on his part a bona fide attempt to comply with the provisions of this Act, and that the nonobservance of the formalities hereinbefore referred to is not of a character calculated to mislead other persons desiring to locate claims in the vicinity. (32 Stat. 699. 33 Stat. 694.)

See note to section 22 of this act, ante, § 3832.

§ 3840. (Act July 1, 1902, c. 1369, § 30.) Marking claim where impossible to mark location line.

In cases where, from the nature or shape of the ground, it is impossible to mark the location line of the claim as provided by this Act then the claim may be marked by placing posts as nearly as
possible to the location line, and noting the distance and direction
such posts may be from such location line, which distance and di-
rection shall be set out in the record of the claim. (32 Stat. 699.)

§ 3841. (Act July 1, 1902, c. 1369, § 31, as amended, Act Feb. 6,
1905, c. 453, § 9.) Recording mineral claim.

Every person locating a mineral claim shall record the same with
the provincial secretary, or such other officer as by the government
of the Philippine Islands may be described as mining recorder of
the district within which the same is situate, within thirty days
after the location thereof. Such record shall be made in a book to
be kept for the purpose in the office of the said provincial secre-
tary or such other officer as by said government described as min-
ing recorder, in which shall be inserted the name of the claim, the
name of each locator, the locality of the mine, the direction of the
location line, the length in meters, the date of location, and the
date of the record. A claim which shall not have been recorded
within the prescribed period shall be deemed to have been aban-

§ 3842. (Act July 1, 1902, c. 1369, § 32.) Priority of location to
determine title.

In case of any dispute as to the location of a mineral claim the
title to the claim shall be recognized according to the priority of
such location, subject to any question as to the validity of the rec-
ord itself and subject to the holder having complied with all the
terms and conditions of this Act. (32 Stat. 699.)

§ 3843. (Act July 1, 1902, c. 1369, § 33.) No holder entitled to
more than one claim on same lode.

No holder shall be entitled to hold in his, its, or their own name
or in the name of any other person, corporation, or association
more than one mineral claim on the same vein or lode. (32 Stat.
699.)

§ 3844. (Act July 1, 1902, c. 1369, § 34.) Abandonment of claim;
note.

A holder may at any time abandon any mineral claim by giving
notice, in writing, of such intention to abandon, to the provincial
secretary or such other officer as by the government of the Philip-
pine Islands may be described as mining recorder; and from the
date of the record of such notice all his interest in such claim shall
cease. (32 Stat. 700.)

§ 3845. (Act July 1, 1902, c. 1369, § 35.) Proofs of citizenship.

Proof of citizenship under the clauses of this Act relating to min-
eral lands may consist, in the case of an individual, of his own af-
davit thereof; in the case of an association of persons unincorpo-
rated, of the affidavit of their authorized agent, made on his own
knowledge or upon information and belief; and in the case of a
 corporation organized under the laws of the United States, or of
any State or Territory thereof, or of the Philippine Islands, by the

(1545)
§ 3846. (Act July 1, 1902, c. 1369, § 36, as amended, Act Feb. 6, 1905, c. 453, § 9.) Mining regulations; annual labor; failure to perform annual labor to subject claim to relocation; rights of co-owner failing to contribute portion of annual labor forfeited after notice; period for performing annual labor.

The United States Philippine Commission or its successors may make regulations, not in conflict with the provisions of this Act, governing the location, manner of recording, and amount of work necessary to hold possession of a mining claim, subject to the following requirements:

On each claim located after the passage of this Act, and until a patent has been issued therefor, not less than two hundred pesos' worth of labor shall be performed or improvements made during each year: Provided, That upon a failure to comply with these conditions the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several coowners to contribute his proportion of the expenditures required thereby, the coowners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent coowners personal notice in writing, or notice by publication in the newspaper published nearest the claim, and in two newspapers published at Manila, one in the English language and the other in the Spanish language, to be designated by the chief of the Philippine insular bureau of public lands, for at least once a week for ninety days, and if, at the expiration of ninety days after such notice in writing or by publication, such delinquent shall fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his coowners who have made the required expenditures. The period within which the work required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim. (32 Stat. 700. 33 Stat. 694.)

See note to section 22 of this act, ante, § 8832.

§ 3847. (Act July 1, 1902, c. 1369, § 37, as amended, Act Feb. 6, 1905, c. 453, § 9.) Patents for mineral claims; application; posting of notice; publication of notice; certificate of labor or improvements; issue of patent if uncontested; price; affidavits by agent of non-resident claimant.

A patent for any land claimed and located for valuable mineral deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this Act, having claimed and located a piece of land for such purposes, who has or have complied with the terms of this Act, may file in
the office of the provincial secretary, or such other officer as by
the government of said islands may be described as mining re-
corder of the province wherein the land claimed is located, an
application for a patent, under oath, showing such compliance, to-
gether with a plat and field notes of the claim or claims in common,
made by or under the direction of the chief of the Philippine in-
sular bureau of public lands, showing accurately the boundaries of
the claim, which shall be distinctly marked by monuments on the
ground, and shall post a copy of such plat, together with a notice
of such application for a patent, in a conspicuous place on the land
embraced in such plat previous to the filing of the application for a
patent, and shall file an affidavit of at least two persons that such
notice has been duly posted, and shall file a copy of the notice in
such office, and shall thereupon be entitled to a patent for the lands,
in the manner following: The provincial secretary, or such other
officer as by the Philippine government may be described as min-
ing recorder, upon the filing of such application, plat, field notes,
notices, and affidavits, shall publish a notice that such an applica-
tion has been made, once a week for the period of sixty days, in a
newspaper to be by him designated as nearest to such claim, and in
two newspapers published at Manila, one in the English language
and one in the Spanish language, to be designated by the chief of
the Philippine insular bureau of public lands; and he shall also post
such notice in his office for the same period. The claimant at the
time of filing this application, or at any time thereafter within the
sixty days of publication, shall file with the provincial secretary, or
such other officer as by the Philippine government may be de-
scribed as mining recorder, a certificate of the chief of the Philip-
pine insular bureau of public lands that one thousand pesos' worth
of labor has been expended or improvements made upon the claim
by himself or grantors; that the plat is correct, with such further
description by such reference to natural objects or permanent mon-
uments as shall identify the claim, and furnish an accurate de-
scription to be incorporated in the patent. At the expiration of the
sixty days of publication the claimant shall file his affidavit, show-
ing that the plat and notice have been posted in a conspicuous
place on the claim during such period of publication. If no adverse
claim shall have been filed with the provincial secretary, or such
other officer as by the government of said islands may be described
as mining recorder, at the expiration of the sixty days of publica-
tion, it shall be assumed that the applicant is entitled to a patent
upon the payment to the provincial treasurer, or the collector of
internal revenue, of twenty-five pesos per hectare, and that no ad-
verse claim exists; and thereafter no objection from third parties
to the issuance of a patent shall be heard, except it be shown that
the applicant has failed to comply with the terms of this Act: Pro-
vided, That where the claimant for a patent is not a resident of or
within the province wherein the land containing the vein, ledge, or
deposit sought to be patented is located, the application for patent
and the affidavits required to be made in this section by the claim-

(1547)
§ 3847. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

ant for such patent may be made by his, her, or its authorized agent
where said agent is conversant with the facts sought to be estab-
lished by said affidavits. (32 Stat. 701. 33 Stat. 695.)

See note to section 22 of this act, ante, § 3832.

§ 3848. (Act July 1, 1902, c. 1369, § 38.) Proof of citizenship of
non-residents.

Applicants for mineral patents, if residing beyond the limits of
the province or military department wherein the claim is situated,
may make the oath or affidavit required for proof of citizenship
before the clerk of any court of record, or before any notary public
of any province of the Philippine Islands, or any other official in
said islands authorized by law to administer oaths. (32 Stat. 701.)

§ 3849. (Act July 1, 1902, c. 1369, § 39, as amended, Act Feb. 6,
1905, c. 453, § 9.) Adverse claims; effect of filing; proceedings
to determine rights; waiver of claims; procedure after judg-
ment; verification of adverse claims; affidavit of nonresident;
different parties entitled to different portions of claim; nei-
ther party entitled; alienation of claim not prohibited.

Where an adverse claim is filed during the period of publication
it shall be upon oath of the person or persons making the same, and
shall show the nature, boundaries, and extent of such adverse
claim, and all proceedings, except the publication of notice and
making and filing of the affidavits thereof, shall be stayed until the
controversy shall have been settled or decided by a court of com-
petent jurisdiction or the adverse claim waived. It shall be the
duty of the adverse claimant, within thirty days after filing his
claim, to commence proceedings in a court of competent jurisdic-
tion to determine the question of the right of possession and pro-
cesute the same with reasonable diligence to final judgment, and a
failure so to do shall be a waiver of his adverse claim. After such
judgment shall have been rendered the party entitled to the posses-
sion of the claim, or any portion thereof, may, without giving fur-
ther notice, file a certified copy of the judgment roll with the pro-
vincial secretary, or such other officer as by the government of
the Philippine Islands may be described as mining recorder, to-
gether with the certificate of the chief of the Philippine insular
bureau of public lands that the requisite amount of labor has been
expended or improvements made thereon, and the description re-
quired in other cases, and shall pay to the provincial treasurer or
the collector of internal revenue of the province in which the claim
is situated, as the case may be, twenty-five pesos per hectare for
his claim, together with the proper fees, whereupon the whole pro-
cedings and the judgment roll shall be certified by the provincial
secretary, or such other officer as by said government may be de-
scribed as mining recorder, to the secretary of the interior of the
Philippine Islands, and a patent shall issue thereon for the claim,
or such portion thereof as the applicant shall appear, from the de-
cision of the court, rightly to possess. The adverse claim may be
verified by the oath of any duly authorized agent or attorney in

(1548)
fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, if residing or at the time being beyond the limits of the province wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record, or any notary public of any province or military department of the Philippine Islands, or any other officer authorized to administer oaths where the adverse claimant may then be. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the chief of the Philippine insular bureau of public lands, whereupon the provincial secretary or such other officer as by the government of said islands may be described as mining recorder shall certify the proceedings and judgment roll to the secretary of the interior for the Philippine Islands, as in the preceding case, and patents shall issue to the several parties according to their respective rights. If, in any action brought pursuant to this section, title to the ground in controversy shall not be established by either party, the court shall so find, and judgment shall be entered accordingly. In such case costs shall not be allowed to either party, and the claimant shall not proceed in the office of the provincial secretary or such other officer as by the government of said islands may be described as mining recorder or be entitled to a patent for the ground in controversy until he shall have perfected his title. Nothing herein contained shall be construed to prevent the alienation of a title conveyed by a patent for a mining claim to any person whatever. (32 Stat. 701. 33 Stat. 696.)

See note to section 22 of this act, ante, § 3832.

§ 3850. (Act July 1, 1902, c. 1369, § 40.) Reference to public surveys; surveys extended subsequent to patent of mineral claims.

The description of mineral claims upon surveyed lands shall designate the location of the claim with reference to the lines of the public surveys, but need not conform therewith; but where a patent shall be issued for claims upon unsurveyed lands the chief of the Philippine insular bureau of public lands in extending the surveys shall adjust the same to the boundaries of such patented claim according to the plat or description thereof, but so as in no case to interfere with or change the location of any such patented claim. (32 Stat. 702.)

§ 3851. (Act July 1, 1902, c. 1369, § 41.) Building stone lands entered as placer claims.

Any person authorized to enter lands under this Act may enter and obtain patent to lands that are chiefly valuable for building stone under the provisions of this Act relative to placer mineral claims. (32 Stat. 702.)

§ 3852. (Act July 1, 1902, c. 1369, § 42.) Petroleum lands entered as placer claims.

Any person authorized to enter lands under this Act may enter and obtain patent to lands containing petroleum or other mineral
§ 3853. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)
oils and chiefly valuable therefor under the provisions of this Act relative to placer mineral claims. (32 Stat. 702.)

§ 3853. (Act July 1, 1902, c. 1369, § 43.) Placer claims; limit of area; conformity to laws of survey; agricultural rights not affected.

No location of a placer claim shall exceed sixty-four hectares for any association of persons, irrespective of the number of persons composing such association, and no such location shall include more than eight hectares for an individual claimant. Such locations shall conform to the laws of the United States Philippine Commission, or its successors, with reference to public surveys, and nothing in this section contained shall defeat or impair any bona fide ownership of land for agricultural purposes or authorize the sale of the improvements of any bona fide settler to any purchaser. (32 Stat. 702.)

§ 3854. (Act July 1, 1902, c. 1369, § 44.) Placer claims on surveyed lands to conform to legal subdivisions; on unsurveyed land; fractional subdivision of agricultural land after segregation of mineral lands.

Where placer claims are located upon surveyed lands and conform to legal subdivisions, no further survey or plat shall be required, and all placer mining claims located after the date of passage of this Act shall conform as nearly as practicable to the Philippine system of public-land surveys and the regular subdivisions of such surveys; but where placer claims can not be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral lands in any legal subdivision a quantity of agricultural land less than sixteen hectares shall remain, such fractional portion of agricultural land may be entered by any party qualified by law for homestead purposes. (32 Stat. 703.)

§ 3855. (Act July 1, 1902, c. 1369, § 45.) Right to patent to placer claims; prior liens preserved.

Where such person or association, they and their grantors have held and worked their claims for a period equal to the time prescribed by the statute of limitations of the Philippine Islands, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this Act, in the absence of any adverse claim; but nothing in this Act shall be deemed to impair any lien which may have attached in any way whatever prior to the issuance of a patent. (32 Stat. 703.)

§ 3856. (Act July 1, 1902, c. 1369, § 46.) Appointment of deputy mineral surveyors; expenses of survey; authority to fix maximum charges for surveys and publications; statement of charges and fees paid by applicant to be filed.

The chief of the Philippine insular bureau of public lands may (1850)
appoint competent deputy mineral surveyors to survey mining claims. The expenses of the survey of vein or lode claims and of the survey of placer claims, together with the cost of publication of notices, shall be paid by the applicants, and they shall be at liberty to obtain the same at the most reasonable rates, and they shall also be at liberty to employ any such deputy mineral surveyor to make the survey. The chief of the Philippine insular bureau of public lands shall also have power to establish the maximum charges for surveys and publication of notices under this Act; and in case of excessive charges for publication he may designate any newspaper published in a province where mines are situated, or in Manila, for the publication of mining notices and fix the rates to be charged by such paper; and to the end that the chief of the bureau of public lands may be fully informed on the subject such applicant shall file with the provincial secretary, or such other officer as by the government of the Philippine Islands may be described as mining recorder, a sworn statement of all charges and fees paid by such applicant for publication and surveys, and of all fees and money paid the provincial treasurer or the collector of internal revenue, as the case may be, which statement shall be transmitted, with the other papers in the case, to the secretary of the interior for the Philippine Islands. (32 Stat. 703.)

§ 3857. (Act July 1, 1902, c. 1369, § 47.) Verifications made and testimony and proofs taken before any officer authorized to administer oaths; contests as to character of lands; notice; publication.

All affidavits required to be made under this Act may be verified before any officer authorized to administer oaths within the province or military department where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the proper provincial secretary or such other officer as by the government of the Philippine Islands may be described as mining recorder. In cases of contest as to the mineral or agricultural character of land the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party can not be found, then by publication at least once a week for thirty days in a newspaper to be designated by the provincial secretary or such other officer as by said government may be described as mining recorder published nearest to the location of such land and in two newspapers published in Manila, one in the English language and one in the Spanish language, to be designated by the chief of the Philippine insular bureau of public lands; and the provincial secretary or such other officer as by said government may be described as mining recorder shall require proofs that such notice has been given. (32 Stat. 703.)
§ 3858. (Act July 1, 1902, c. 1369, § 48.) Patents for non-mineral lands adjacent to claim; limit of area; price; patents for mill sites.

Where nonmineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such nonadjacent surface ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no application of such nonadjacent land shall exceed two hectares, and payment for the same must be made at the same rate as fixed by this Act for the superficies of the lode. The owner of a quartz mill or reduction works not owning a mine in connection therewith may also receive a patent for his mill site as provided in this section. (32 Stat. 704.)

§ 3859. (Act July 1, 1902, c. 1369, § 49.) Rules for working, etc., of mines, easements, etc., may be made conditions of sale; bond of deputy mineral surveyor.

As a condition of sale the Government of the Philippine Islands may provide rules for working, policing, and sanitation of mines, and rules concerning easements, drainage, water rights, right of way, right of Government survey and inspection, and other necessary means to their complete development not inconsistent with the provisions of this Act, and those conditions shall be fully expressed in the patent. The Philippine Commission or its successors are hereby further empowered to fix the bonds of deputy mineral surveyors. (32 Stat. 704.)

§ 3860. (Act July 1, 1902, c. 1369, § 50.) Water rights recognized by local customs, laws, and decisions of courts confirmed; rights of ways for ditches and canals; compensation for injuries.

Whenever by priority of possession rights to use of water for mining, agricultural, manufacturing, or other purposes have vested and accrued and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same, and the right of way for the construction of ditches and canals for the purpose herein specified is acknowledged and confirmed, but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage. (32 Stat. 704.)

§ 3861. (Act July 1, 1902, c. 1369, § 51.) Patents to be subject to vested water, ditch, and reservoir rights.

All patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights as may have been acquired under or recognized by the preceding section. (32 Stat. 704.)
§ 3862. (Act July 1, 1902, c. 1369, § 52.) Land districts authorized.

The Government of the Philippine Islands is authorized to establish land districts and provide for the appointment of the necessary officers wherever they may deem the same necessary for the public convenience, and to further provide that in districts where land offices are established proceedings required by this Act be had before provincial officers shall be had before the proper officers of such land offices. (32 Stat. 704.)

§ 3863. (Act July 1, 1902, c. 1369, § 53, as amended, Act Feb. 6, 1905, c. 453, § 9.) Coal lands; who may enter; limit of area; price; entries in conformity with rules of survey.

Every person above the age of twenty-one years who is a citizen of the United States or of the Philippine Islands, or who has acquired the right of a native of said islands under and by virtue of the treaty of Paris, or any association of persons severally qualified as above, shall, upon application to the proper provincial treasurer, have the right to enter any quality of vacant coal lands of said islands, not otherwise appropriated or reserved by competent authority, not exceeding sixty-four hectares to such individual person, or one hundred and twenty-eight hectares to such association upon payment to the provincial treasurer or the collector of internal revenue, as the case may be, of not less than fifty pesos per hectare for such lands, where the same shall be situated more than twenty-five kilometers from any completed railroad or available harbor or navigable stream, and not less than one hundred pesos per hectare for such lands as shall be within twenty-five kilometers of such road, harbor, or stream: Provided, That such entries shall be taken in squares of sixteen or sixty-four hectares, in conformity with the rules and regulations governing the public-land surveys of the said islands in plotting legal subdivisions. (32 Stat. 704. 33 Stat. 696.)

See note to section 22 of this act, ante, § 3832.

§ 3864. (Act July 1, 1902, c. 1369, § 54.) Preference right of persons in possession.

Any person or association of persons, severally qualified as above provided, who have opened and improved or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference right of entry under the preceding section of the mines so opened and improved. (32 Stat. 705.)

§ 3865. (Act July 1, 1902, c. 1369, § 55.) Declaratory statement of preference right; time for filing.

All claims under the preceding section must be presented to the proper provincial secretary within sixty days after the date of actual possession and the commencement of improvements on the land by the filing of a declaratory statement therefor; and where the improvements shall have been made prior to the expiration of three months from the date of the passage of this Act, sixty days.
§ 3866. (Act July 1, 1902, c. 1369, § 56.) Only one entry allowed; payment within one year.

The three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons, any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such section shall enter or hold any other lands under their provisions; and all persons claiming under section fifty-eight shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant. (32 Stat. 705.)

Section 58 of this act, post, § 3868, mentioned in this section, provided for the sale, at public auction or private sale, for cash, of saline lands. The reference to that section is apparently an error.

§ 3867. (Act July 1, 1902, c. 1369, § 57.) Conflicting claims; priority of possession to govern claims subsequent to act; division of lands between claimants prior to act; rules and regulations.

In case of conflicting claims upon coal lands where the improvements shall be commenced after date of the passage of this Act, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference right to purchase. And also where improvements have already been made prior to the passage of this Act, division of the land claimed may be made by legal subdivisions, which shall conform as nearly as practicable with the subdivisions of land provided for in this Act, to include as near as may be valuable improvements of the respective parties. The Government of the Philippine Islands is authorized to issue all needful rules and regulations for carrying into effect the provisions of this and preceding sections relating to mineral lands. (32 Stat. 705.)

§ 3868. (Act July 1, 1902, c. 1369, § 58, as amended, Act Feb. 6, 1905, c. 453, § 9.) Saline lands; sales at auction; private sales; proclamations of sales.

Whenever it shall be made to appear to the secretary of any province or the commander of any military department in the Philippine Islands that any lands within the province are saline in character, it shall be the duty of said provincial secretary or commander, under the regulations of the government of the Philippine Islands, to take testimony in reference to such lands, to ascertain their true character, and to report the same to the secretary of the
interior for the Philippine Islands; and if upon such testimony the secretary of the interior shall find that such lands are saline and incapable of being purchased under any of the laws relative to the public domain, then and in such case said lands shall be offered for sale at the office of the provincial secretary, or such other officer as by the said government may be described as mining recorder of the province or department in which the same shall be situated, as the case may be, under such regulations as may be prescribed by said government and sold to the highest bidder for cash at a price of not less than six pesos per hectare; and in case such lands fail to sell when so offered, then the same shall be subject to private sale at such office, for cash, at a price not less than six pesos per hectare, in the same manner as other lands in the said islands are sold. All executive proclamations relating to the sales of public saline lands shall be published in only two newspapers, one printed in the English language and one in the Spanish language, at Manila, which shall be designated by said secretary of the interior. (32 Stat. 705. 33 Stat. 697.)

See note to section 22 of this act, ante, § 3832.

Section 56 of this act, ante, § 3846, provided that persons claiming under this section must make proof and payment within one year from the time required for filing or the land would be open to entry by others. The reference to this section is apparently an error.

§ 3869. (Act July 1, 1902, c. 1369, § 59.) Mineral lands reserved from grants for public purposes.

No Act granting lands to provinces, districts, or municipalities to aid in the construction of roads, or for other public purposes, shall be so construed as to embrace mineral lands, which, in all cases, are reserved exclusively, unless otherwise specially provided in the Act or Acts making the grant. (32 Stat. 706.)

§ 3870. (Act July 1, 1902, c. 1369, § 60.) Prior mining concessions not affected; boundaries of concessions to be marked.

Nothing in this Act shall be construed to affect the rights of any person, partnership, or corporation having a valid, perfected mining concession granted prior to April eleventh, eighteen hundred and ninety-nine, but all such concessions shall be conducted under the provisions of the law in force at the time they were granted, subject at all times to cancellation by reason of illegality in the procedure by which they were obtained, or for failure to comply with the conditions prescribed as requisite to their retention in the laws under which they were granted: Provided, That the owner or owners of every such concession shall cause the corners made by its boundaries to be distinctly marked with permanent monuments within six months after this Act has been promulgated in the Philippine Islands, and that any concessions the boundaries of which are not so marked within this period shall be free and open to explorations and purchase under the provisions of this Act. (32 Stat. 706.)

(15555)
§ 3871. (Act July 1, 1902, c. 1369, § 61.) Mining rights in future acquired only under terms of act.
Mining rights on public lands in the Philippine Islands shall, after the passage of this Act, be acquired only in accordance with its provisions. (32 Stat. 706.)

§ 3872. (Act July 1, 1902, c. 1369, § 62.) Proceedings for cancellation of perfected concessions.
All proceedings for the cancellation of perfected Spanish concessions shall be conducted in the courts of the Philippine Islands having jurisdiction of the subject-matter and of the parties, unless the United States Philippine Commission, or its successors, shall create special tribunals for the determination of such controversies. (32 Stat. 706.)

AUTHORITY FOR THE PHILIPPINE ISLANDS GOVERNMENT TO PURCHASE LANDS OF RELIGIOUS ORDERS AND OTHERS AND ISSUE BONDS FOR PURCHASE PRICE

§ 3873. (Act July 1, 1902, c. 1369, § 63.) Government authorized to acquire, etc., real and personal property; may condemn real estate.
The government of the Philippine Islands is hereby authorized, subject to the limitations and conditions prescribed in this Act, to acquire, receive, hold, maintain, and convey title to real and personal property, and may acquire, real estate for public uses by the exercise of the right of eminent domain. (32 Stat. 706.)

§ 3874. (Act July 1, 1902, c. 1369, § 64.) Acquisition of property of religious orders, etc.; issuance of bonds in payment thereof.
The powers hereinbefore conferred in section sixty-three may also be exercised in respect of any lands, easements, appurtenances, and hereditaments which, on the thirteenth of August, eighteen hundred and ninety-eight, were owned or held by associations, corporations, communities, religious orders, or private individuals in such large tracts or parcels and in such manner as in the opinion of the Commission injuriously to affect the peace and welfare of the people of the Philippine Islands. And for the purpose of providing funds to acquire the lands mentioned in this section said government of the Philippine Islands is hereby empowered to incur indebtedness, to borrow money, and to issue, and to sell at not less than par value, in gold coin of the United States of the present standard value or the equivalent in value in money of said Islands, upon such terms and conditions as it may deem best, registered or coupon bonds of said government for such amount as may be necessary, said bonds to be in denominations of fifty dollars or any multiple thereof bearing interest at a rate not exceeding four and a half per centum per annum, payable quarterly, and to be payable at the pleasure of said government after dates named in said bonds not less than five nor more than thirty years from the date of their issue, together with interest thereon, in gold coin of the United States of the present standard value or the equivalent in value in (1556)
money of said Islands; and said bonds shall be exempt from the payment of all taxes or duties of said government, or any local authority therein, or of the Government of the United States, as well as from taxation in any form by or under State, municipal, or local authority in the United States or the Philippine Islands. The monies which may be realized or received from the issue and sale of said bonds shall be applied by the government of the Philippine Islands to the acquisition of the property authorized by this section, and to no other purposes. (32 Stat. 706.)

§ 3875. (Act July 1, 1902, c. 1369, § 65.) Sale or lease of lands acquired; proceeds a trust fund to pay bonds; preference right to purchase or lease lands given to actual settlers.

All lands acquired by virtue of the preceding section shall constitute a part and portion of the public property of the government of the Philippine Islands, and may be held, sold, and conveyed, or leased temporarily for a period not exceeding three years after their acquisition by said government on such terms and conditions as it may prescribe, subject to the limitations and conditions provided for in this Act: Provided, That all deferred payments and the interest thereon shall be payable in the money prescribed for the payment of principal and interest of the bonds authorized to be issued in payment of said lands by the preceding section and said deferred payments shall bear interest at the rate borne by the bonds. All monies realized or received from sales or other disposition of said lands or by reason thereof shall constitute a trust fund for the payment of principal and interest of said bonds, and also constitute a sinking fund for the payment of said bonds at their maturity. Actual settlers and occupants at the time said lands are acquired by the government shall have the preference over all others to lease, purchase, or acquire their holdings within such reasonable time as may be determined by said government. (32 Stat. 707.)

Municipal Bonds for Public Improvements

§ 3876. (Act July 1, 1902, c. 1369, § 66, as amended, Act Feb. 6, 1905, c. 453, § 3.) Municipal indebtedness for public improvements; bonds; limit of indebtedness.

For the purpose of providing funds to construct necessary sewer and drainage facilities, to secure a sufficient supply of water and necessary buildings for primary public schools in municipalities, the government of the Philippine Islands may, where current taxation is inadequate for the purpose, under such limitations, terms, and conditions as it may prescribe, authorize, by appropriate legislation, to be approved by the President of the United States, any municipality of said islands to incur indebtedness, borrow money, and to issue and sell (at not less than par value in gold coin of the United States) registered or coupon bonds, in such amount and payable at such time as may be determined to be necessary by the government of said islands, with interest thereon not to exceed five per centum per annum: Provided, That the entire indebtedness

(1557)
§ 3876. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 23)

of any municipality shall not exceed five per centum of the assessed valuation of the real estate in said municipality, and any obligation in excess of such limit shall be null and void. (32 Stat. 707. 33 Stat. 690.)

The first part of this section, as originally enacted, read as follows: "That for the purpose of providing sewers, to furnish adequate sewer and drainage facilities, to secure a sufficient supply of water, and to provide all kinds of municipal betterments and improvements in municipalities, the government of the Philippine Islands, under such limitations, terms and conditions as it may prescribe, with the consent and approval of the President and the Congress of the United States, may permit any municipality of said islands to incur indebtedness," etc., continuing to the end of the section as set forth here. It was amended to read as set forth here by Act Feb. 6, 1905, c. 433, § 8, last cited above.

§ 3877. (Act July 1, 1902, c. 1369, § 67.) Denominations of bonds; interest; maturity; exempt from taxation.

All municipal bonds shall be in denominations of fifty dollars, or any multiple thereof, bearing interest at a rate not exceeding five per centum per annum, payable quarterly, such bonds to be payable at the pleasure of the government of the Philippine Islands, after dates named in said bonds not less than five nor more than thirty years from the date of their issue, together with the interest thereon, in gold coin of the United States of the present standard value, or its equivalent in value in money of the said Islands; and said bonds shall be exempt from the payment of all taxes or duties of the government of the Philippine Islands, or any local authority therein, or the Government of the United States. (32 Stat. 707.)

§ 3878. (Act July 1, 1902, c. 1369, § 68.) Use of funds from sale of bonds.

All moneys which may be realized or received from the issue and sale of said bonds shall be utilized under authorization of the government of the Philippine Islands in providing the municipal improvements and betterments which induced the issue and sale of said bonds, and for no other purpose. (32 Stat. 708.)

§ 3879. (Act July 1, 1902, c. 1369, § 69.) Municipal taxes to pay bonds; sinking fund; government to be reimbursed for payments made by it.

The government of the Philippine Islands shall, by the levy and collection of taxes on the municipality, its inhabitants and their property, or by other means, make adequate provision to meet the obligation of the bonds of such municipality, and shall create a sinking fund sufficient to retire them and pay the interest thereon in accordance with the terms of issue: Provided, That if said bonds or any portion thereof shall be paid out of the funds of the government of said islands, such municipality shall reimburse said government for the sum thus paid, and said government is hereby empowered to collect said sum by the levy and collection of taxes on such municipality. (32 Stat. 708.)

§ 3880. (Act July 1, 1902, c. 1369, § 70.) Issue of bonds for sewers, water supply, etc., in Manila; limit.

For the purpose of providing funds to construct sewers in the (1658)
city of Manila and to furnish it with an adequate sewer and drain-
age system and supply of water the government of the Philippine
Islands, with the approval of the President of the United States
first had, is hereby authorized to permit the city of Manila to incur
indebtedness, to borrow money, and to issue and sell (at not less
than par value in gold coin of the United States), upon such terms
and conditions as it may deem best, registered or coupon bonds of
the city of Manila to an amount not exceeding four million dollars
lawful money of the United States, payable at such time or times
as may be determined by said government, with interest thereon
not to exceed five per centum per annum. (32 Stat. 708.)

§ 3881. (Act July 1, 1902, c. 1369, § 71.) Denomination of bonds;
interest; maturity; exempt from taxation.

Said coupon or registered bonds shall be in denominations of fifty
dollars or any multiple thereof, bearing interest at a rate not ex-
ceeding five per centum per annum, payable quarterly, such bonds
to be payable at the pleasure of the government of the Philippine
Islands, after dates named in said bonds not less than five nor more
than thirty years from the date of their issue, together with the
interest thereon in gold coin of the United States of the present
standard value, or the equivalent in value in money of the said Is-
lands; and said bonds shall be exempt from the payment of all
taxes or duties of the government of the said Islands, or of any
local authority therein, or of the Government of the United States.
(32 Stat. 708.)

§ 3882. (Act July 1, 1902, c. 1369, § 72.) Use of funds from sale
of bonds.

All moneys which may be realized or received from the issue and
sale of said bonds shall be utilized under authorization of said gov-
ernment of the Philippine Islands in providing a suitable sewer
and drainage system and adequate supply of water for the city of
Manila and for no other purpose. (32 Stat. 708.)

§ 3883. (Act July 1, 1902, c. 1369, § 73.) Taxes and sinking fund
for the payment of bonds; reimbursement of government by
city for payments thereon.

The government of the Philippine Islands shall, by the levy and
collection of taxes on the city of Manila, its inhabitants and their
property, or by other means, make adequate provision to meet the
obligation of said bonds and shall create a sinking fund sufficient to
retire them and pay the interest thereon in accordance with the
terms of issue: Provided, That if said bonds or any portion there-
of shall be paid out of the funds of the government of said islands,
said city shall reimburse said government for the sum thus paid,
and said government is hereby empowered to collect said sum by
the levy and collection of taxes on said city. (32 Stat. 708.)

(1559)
§ 3884. THE TERRITORIES AND INSULAR POSSESSIONS

FRANCHISES

§ 3884. (Act July 1, 1902, c. 1369, § 74.) Grant of franchises, privileges and concessions authorized; conditions of grants; slavery prohibited; penalty.

The government of the Philippine Islands may grant franchises, privileges, and concessions, including the authority to exercise the right of eminent domain for the construction and operation of works of public utility and service, and may authorize said works to be constructed and maintained over and across the public property of the United States, including streets, highways, squares, and reservations, and over similar property of the government of said Islands, and may adopt rules and regulations under which the provincial and municipal governments of the islands may grant the right to use and occupy such public property belonging to said provinces or municipalities: Provided, That no private property shall be taken for any purpose under this section without just compensation paid or tendered therefor, and that such authority to take and occupy land shall not authorize the taking, use, or occupation of any land except such as is required for the actual necessary purposes for which the franchise is granted, and that no franchise, privilege, or concession shall be granted to any corporation except under the conditions that it shall be subject to amendment, alteration, or repeal by the Congress of the United States, and that lands or rights of use and occupation of lands thus granted shall revert to the governments by which they were respectively granted upon the termination of the franchises and concessions under which they were granted or upon their revocation or repeal. That all franchises, privileges, or concessions granted under this Act shall forbid the issue of stock or bonds except in exchange for actual cash, or for property at a fair valuation, equal to the par value of the stock or bonds so issued; shall forbid the declaring of stock or bond dividends, and, in the case of public-service corporations, shall provide for the effective regulation of the charges thereof, for the official inspection and regulation of the books and accounts of such corporations, and for the payment of a reasonable percentage of gross earnings into the treasury of the Philippine Islands or of the province or municipality within which such franchises are granted and exercised: Provided further, That it shall be unlawful for any corporation organized under this Act, or for any person, company, or corporation receiving any grant, franchise, or concession from the government of said Islands, to use, employ, or contract for the labor of persons claimed or alleged to be held in involuntary servitude; and any person, company, or corporation so violating the provisions of this Act shall forfeit all charters, grants, franchises, and concessions for doing business in said Islands, and in addition shall be deemed guilty of an offense, and shall be punished by a fine of not less than ten thousand dollars. (32 Stat. 709.)

All franchises granted by the temporary civil government established by the President were required to contain a reservation of the right to alter. (1560)
amend or repeal the same, and no franchise could be granted unless approved
by the President and one which was clearly necessary for the immediate gov-
ernment of the islands and indispensable for the interest of the people thereof,
by Act March 2, 1901, c. 808, 31 Stat. 910.

§ 3885. (Act July 1, 1902, c. 1369, § 75.) Corporations not to en-
gege in real estate business; ownership of real estate restrict-
ed; maximum area of agricultural corporation; real estate
loans by corporations authorized; foreign corporations sub-
ject to provisions.

No corporation shall be authorized to conduct the business of
buying and selling real estate or be permitted to hold or own real
estate except such as may be reasonably necessary to enable it to
carry out the purposes for which it is created, and every corpora-
tion authorized to engage in agriculture shall by its charter be re-
stricted to the ownership and control of not to exceed one thousand
and twenty-four hectares of land; and it shall be unlawful for any
member of a corporation engaged in agriculture or mining and for
any corporation organized for any purpose except irrigation to be
in any wise interested in any other corporation engaged in agri-
culture or in mining. Corporations, however, may loan funds upon
real-estate security and purchase real estate when necessary for the
collection of loans, but they shall dispose of real estate so obtained
within five years after receiving the title. Corporations not organ-
ized in the Philippine Islands, and doing business therein, shall be
bound by the provisions of this section so far as they are applica-
able. (32 Stat. 709.)

§ 3886. (Act July 1, 1902, c. 1369, § 76.) Philippine coinage; mint
at Manila.

The government of the Philippine Islands is hereby authorized
to establish a mint at the city of Manila, in said islands, for coin-
age purposes, and the coins hereinafter authorized may be coined at
said mint. And the said government is hereby authorized to en-
act laws necessary for such establishment: Provided, That the
laws of the United States relating to mints and coinage, so far as
applicable, are hereby extended to the coinage of said islands. (32
Stat. 710.)

This section and the seven following sections, set forth below, were part of
an act temporarily to provide for the administration of affairs of civil govern-
ment in the Philippine Islands, and for other purposes, cited above. These
sections authorized the government of the Philippine Islands to establish a
mint, and to coin, for use in said islands, certain subsidiary silver coins, and
made various provisions relating thereto. Further and more extensive pro-
visions relating to coinage, amending and repealing in part the provisions
of this act, were made by Act March 2, 1903, c. 980, post, §§ 3803–3903.

§ 3887. (Act July 1, 1902, c. 1369, § 77, as amended, Act March 2,
1903, c. 980, § 4.) Subsidiary silver coins.

The government of the Philippine Islands is authorized to coin for
use in said islands a coin of the denomination of fifty centavos and
of the weight of two hundred and eight grains, a coin of the denomi-
ation of twenty centavos and of the weight of eighty-three and
ten one-hundredths grains, and a coin of the denomination of ten

(1561)
centavos and of the weight of forty-one and fifty-five one-hundredths grains; and the standard of said silver coins shall be such that of one thousand parts, by weight, nine hundred shall be of pure metal and one hundred of alloy, and the alloy shall be of copper. (32 Stat. 710. 32 Stat. 953.)

This section was amended by Act March 2, 1903, c. 980, § 4, cited above, by increasing the weight of each of the coins authorized from that prescribed by the section as originally enacted, making it read as set forth here. The original section provided for a coin of 50 centavos of the weight of 192.9 grams, a coin of 20 centavos of the weight of 77.18 grams, and a coin of 10 centavos of the weight of 38.58 grams.

In addition to the coinage authorized by this act, the coinage of a silver peso was authorized by Act March 2, 1903, c. 980, § 2, post, § 3894, to be subject, by section 6 of that act, post, § 3897, to the conditions and limitations of the provisions of this act.

Section 78 provided that the coins authorized by this section should be coined from silver bullion to be purchased therefor, or from silver coins issued under the Spanish government for use in said Islands, and that the subsidiary silver coins authorized thereby should be legal tender in said Islands to the amount of $10. The section was repealed by Act March 2, 1903, c. 980, § 13, 32 Stat. 955, and similar more comprehensive provisions of the same nature were made by section 5 of that act, post, § 3896.

§ 3888. (Act July 1, 1902, c. 1369, § 79.) Minor coins; legal tender.
The government of the Philippine Islands is also authorized to issue minor coins of the denominations of one-half centavo, one centavo, and five centavos, and such minor coins shall be legal tender in said islands for amounts not exceeding one dollar. The alloy of the five-centavo piece shall be of copper and nickel, to be composed of three-fourths copper and one-fourth nickel. The alloy of the one-centavo and one-half-centavo pieces shall be ninety-five per centum of copper and five per centum of tin and zinc, in such proportions as shall be determined by said government. The weight of the five-centavo piece shall be seventy-seven and sixteen-hundredths grains troy, and of the one-centavo piece eighty grains troy, and of the one-half-centavo piece forty grains troy. (32 Stat. 710.)

The coinage authorized by Act March 2, 1903, c. 980, post, §§ 3893–3903, is in addition to the coinage authorized by this act.
The provision of the law in force in the Philippine Islands making any form of money legal tender, after December 31, 1903, except as provided in Act March 2, 1903, c. 980, were repealed by section 13 of that act, 32 Stat. 905.

§ 3889. (Act July 1, 1902, c. 1369, § 80.) Purchase of metal.
For the purchase of metal for the subsidiary and minor coinage, authorized by the preceding sections, an appropriation may be made by the government of the Philippine Islands from its current funds, which shall be reimbursed from the coinage under said sections; and the gain or seigniorage arising therefrom shall be paid into the treasury of said Islands. (32 Stat. 710.)

Similar provisions for the purchase of metal for the silver peso, authorized by Act March 2, 1903, c. 980, were made by section 9 of that act, post, § 3900.

§ 3890. (Act July 1, 1902, c. 1369, § 81.) Place of coinage.
The subsidiary and minor coinage hereinbefore authorized may be coined at the mint of the government of the Philippine Islands at
§ 3891. (Act July 1, 1902, c. 1369, § 82.) Devices and inscriptions.

The subsidiary and minor coinage hereinafter authorized shall bear devices and inscriptions to be prescribed by the government of the Philippine Islands and such devices and inscriptions shall express the sovereignty of the United States, that it is a coin of the Philippine Islands, the denomination of the coin, and the year of the coinage. (32 Stat. 711.)

§ 3892. (Act July 1, 1902, c. 1369, § 83.) Redemption and reissue of worn or defective coins; execution of provisions of act.

The government of the Philippine Islands shall have the power to make all necessary appropriations and all proper regulations for the redemption and reissue of worn or defective coins and for carrying out all other provisions of this Act relating to coinage. (32 Stat. 711.)

§ 3893. (Act March 2, 1903, c. 980, § 1.) Philippine coinage; unit of value; legal tender.

The unit of value in the Philippine Islands shall be the gold peso consisting of twelve and nine-tenths grains of gold, nine-tenths fine, said gold peso to become the unit of value when the government of the Philippine Islands shall have coined and ready for, or in, circulation not less than five million of the silver pesos hereinafter provided for in this Act, and the gold coins of the United States at the rate of one dollar for two pesos hereinafter authorized to be coined shall be legal tender for all debts, public and private, in the Philippine Islands. (32 Stat. 952.)

This section and the ten sections next following were an act entitled "An act to establish a standard of value and to provide for a coinage system in the Philippine Islands," cited above.

Section 4 of the act amended Act July 1, 1902, c. 1380, § 77, and is incorporated into that section as set forth ante, § 2887.

Section 13 repealed Act July 1, 1902, c. 1389, § 78.

§ 3894. (Act March 2, 1903, c. 980, § 2.) Silver peso.

In addition to the coinage authorized for use in the Philippine Islands by the Act of July first, nineteen hundred and two, entitled "An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," the government of the Philippine Islands is authorized to coin to an amount not exceeding seventy-five million pesos, for use in said islands, a silver coin of the denomination of one peso and of the weight of four hundred and sixteen grains, and the standard of said silver coins shall be such that of one thousand parts, by weight, nine hun-
§ 3894  THE TERRITORIES AND INSULAR POSSESSIONS  (Tit. 23)

dred shall be of pure metal and one hundred of alloy, and the alloy shall be of copper.  (32 Stat. 953.)

Sections 76, 77, 79-83, of Act July 1, 1902, c. 1309, mentioned in this section, which authorized coinage for use in the Philippine Islands, are set forth ante, §§ 3888-3892.

§ 3895.  (Act March 2, 1903, c. 980, § 3.) Legal tender.

The silver Philippine peso authorized by this Act shall be legal tender in the Philippine Islands for all debts, public and private, unless otherwise specifically provided by contract: Provided, That debts contracted prior to the thirty-first day of December, nineteen hundred and three, may be paid in the legal-tender currency of said islands existing at the time of the making of said contracts, unless otherwise expressly provided by contract.  (32 Stat. 953.)

§ 3896.  (Act March 2, 1903, c. 980, § 5.) Purchase of silver bullion; recoining of silver coins; legal tender.

The Philippine peso herein authorized and the subsidiary silver coins authorized by section seventy-seven of the Act of July first, nineteen hundred and two, as amended by the preceding section of this Act, shall be coined under the authority of the government of the Philippine Islands in such amounts as it may determine, with the approval of the Secretary of War of the United States, except as limited in section two of this Act, from silver bullion purchased by said government, with the approval of the Secretary of War of the United States: Provided, That said government may, in its discretion, in lieu of the purchase of bullion, reconin any of the silver coins now in or hereafter received by the treasury of the government of the Philippine Islands into the coins provided for in this Act or in the Act of July first, nineteen hundred and two, as herein amended, at such rate and under such regulations as it may prescribe; and the subsidiary silver coins authorized by this Act and by the Act of July first, nineteen hundred and two, shall be legal tender in said islands to the amount of ten dollars.  (32 Stat. 953.)

This section re-enacted, with additional provisions, the provisions of section 78 of Act July 1, 1902, c. 1309, 32 Stat. 710, which section was repealed by section 13 of this act, 32 Stat. 955.

§ 3897.  (Act March 2, 1903, c. 980, § 6.) Application of previous provisions to coinage authorized by act; maintenance of parity between silver peso and gold peso; issue of temporary certificates of indebtedness, redemption thereof, and use of proceeds.

The coinage authorized by this Act shall be subject to the conditions and limitations of the provisions of the Act of July first, nineteen hundred and two, entitled "An Act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes," except as herein otherwise provided; and the government of the Philippine Islands may adopt such measures as it may deem proper, not inconsistent with said Act of July first, nineteen hundred and two, to maintain the value of the silver Philippine peso at the rate of one gold peso, and in order to maintain such parity between said silver Philippine pesos and the gold pesos herein provided for, and for no other purpose, may issue tem-

(1564)
porary certificates of indebtedness, bearing interest at a rate not to exceed four per centum annually, payable at periods of three months or more, but not later than one year from the date of issue, which shall be in the denominations of twenty-five dollars, or fifty pesos, or some multiple of such sum, and shall be redeemable in gold coin of the United States, or in lawful money of said islands, according to the terms of issue prescribed by the government of said islands; but the amount of such certificates outstanding at any one time shall not exceed ten million dollars, or twenty million pesos, and said certificates shall be exempt from the payment of all taxes or duties of the government of the Philippine Islands, or any local authority therein, or of the Government of the United States, as well as from taxation in any form by or under any State, municipal, or local authority in the United States or the Philippine Islands; Provided, That all the proceeds of said certificates shall be used exclusively for the maintenance of said parity, as herein provided, and for no other purpose, except that a sum not exceeding three million dollars at any one time may be used as a continuing credit for the purchase of silver bullion in execution of the provisions of this Act. (32 Stat. 953.)

The government of the Philippine Islands was authorized, in order to carry out the provisions of this section, to change the weight and fineness of the silver coins authorized by the act, by Act June 23, 1906, c. 3521, § 1, post, § 3804.

§ 3898. (Act March 2, 1903, c. 980, § 7.) Silver coins previously in use receivable for public dues for limited time; preference to silver pesos and silver certificates.

The Mexican silver dollar now in use in the Philippine Islands and the silver coins heretofore issued by the Spanish Government for use in said islands shall be receivable for public dues at a rate to be fixed from time to time by the proclamation of the civil governor of said lands until such date, not earlier than the first day of January, nineteen hundred and four, as may be fixed by public proclamation of said civil governor, when such coins shall cease to be so receivable: Provided, That the public offices of the government of said islands shall give a preference for all public dues to the silver pesos and the silver certificates authorized by this Act, and may at any time refuse to receive such Mexican dollars and Spanish coins as may appear to be counterfeit or defective. (32 Stat. 954.)

§ 3899. (Act March 2, 1903, c. 980, § 8, as amended, Act Feb. 6, 1905, c. 453, § 10, and Act June 23, 1906, c. 3521, § 2.) Silver certificates to be issued on deposit of silver pesos and to be receivable for public dues; reissue; lawful reserve of banking associations; substitution of United States gold coin for silver pesos deposited.

The treasurer of the Philippine Islands is hereby authorized, in his discretion, to receive at the treasury of the government of the said islands or any of its branches deposits of the standard silver coins of one peso authorized by this Act to be coined, in sums of not less than twenty pesos, Philippine currency, and to issue certificates therefor in denominations of not less than two pesos nor more than (1565)
five hundred pesos, and coin so deposited shall be retained in the treas-
ury and held for the payment of such certificates on demand, and used
for no other purpose. Such certificates shall be receivable for customs,
taxes, and for all public dues in the Philippine Islands, and when so
received may be reissued, and when held by any banking association in
said islands may be counted as a part of its lawful reserve: Provided,
That the treasurer of the Philippine Islands, with the approval of the
governor-general, may substitute for any part of such silver pesos
hereafter deposited, gold coin of the United States legally equivalent
in value, and redeem the certificates hereafter issued in either silver
pesos or such gold coin of equivalent value at the option of the Treas-
urer: Provided further, That the amount of gold coin held in such re-
serve shall not at any time exceed sixty per centum of the total amount

This section, as originally enacted, authorized the issue of silver certificates
"in denominations of not less than two nor more than ten pesos." It was
amended by striking out the word "ten" and inserting in lieu thereof the
words "five hundred," by Act Feb. 6, 1905, c. 453, § 10, cited above. It was
further amended by some minor changes in language and by the addition,
at the end of the section as originally enacted, of the two provisions relating
to substitution of gold coin for silver pesos, so as to read as set forth above,
by Act June 23, 1906, c. 3921, § 2, last cited above.

§ 3900. (Act March 2, 1903, c. 980, § 9.) Purchase of metal.

For the purchase of metal for the silver Philippine peso author-
ized by this Act, an appropriation may be made by the government
of the Philippine Islands from its current funds, or as hereinbefore
authorized, which shall be reimbursed from the coinage under said
sections. (32 Stat. 954.)

Similar provisions for the purchase of metal for the subsidiary and minor
coinage authorized by Act July 1, 1902, c. 1399, were made by section 80
of that act, ante, § 3889.

§ 3901. (Act March 2, 1903, c. 980, § 10.) Place of coinage.

The silver Philippine pesos hereinbefore authorized may be coined
at the mint of the government of the Philippine Islands at Manila,
or arrangements may be made by the said government with the Secre-
tary of the Treasury of the United States for their coinage or any
portion thereof at any of the mints of the United States, at a charge
covering the reasonable cost of the work. (32 Stat. 954.)

Similar provisions as to the place of coinage of the subsidiary and minor
coins authorized by Act July 1, 1902, c. 1399, were made by section 81 of
that act, ante, § 3890.

§ 3902. (Act March 2, 1903, c. 980, § 11.) Devices and inscrip-
tions.

The silver Philippine peso hereinbefore authorized shall bear de-
vices and inscriptions to be prescribed by the government of the
Philippine Islands, and such devices and inscriptions shall express
the sovereignty of the United States, that it is a coin of the Philippine
Islands, the denomination of the coin, and the year of the coinage. (32
Stat. 954.)

Similar provisions as to the devices and inscriptions for the subsidiary
and minor coins authorized by Act July 1, 1902, c. 1399, were made by
section 82 of that act, ante, § 3891.

(15606)
§ 3903. (Act March 2, 1903, c. 980, § 12.) Preparation of drawings, designs, and plates, and execution of coinage, engraving, or printing of notes and certificates.

The Secretary of the Treasury is hereby authorized and directed, when requested by the government of the Philippine Islands, to cause to be made and prepared any drawings, designs, and plates, and execute any coinage, engraving, or printing of notes and certificates authorized by this Act, and to make a proper charge for the same, covering as nearly as may be the actual cost, which shall be defrayed from the revenues of said islands. (32 Stat. 954.)

§ 3904. (Act June 23, 1906, c. 3521, § 1.) Change in weight and fineness of silver coins authorized.

With the approval of the President of the United States, the government of the Philippine Islands is hereby authorized, whenever in its opinion such action is desirable, in order to carry out the provisions of section six of the Act approved March second, nineteen hundred and three, entitled "An Act to establish a standard of value and to provide for a coinage system in the Philippine Islands," to change the weight and fineness of the silver coins authorized by said Act, and may in its discretion provide a weight and fineness proportionately less for subsidiary coins than for the standard Philippine pesos, and may also in its discretion recast any of the existing coins of the Philippine Islands at the new weight and fineness when such coins are received into the Treasury or into the gold standard fund of the Philippine Islands: Provided, That the weight and fineness of the silver peso to be coined in accordance with the provisions of this section shall not be reduced below seven hundred parts of pure silver to three hundred of alloy. (34 Stat. 453.)

This was the first section of an act to amend Act March 2, 1903, c. 980, ante, §§ 3893-3803.

Section 2 of this act amended Act March 2, 1903, c. 980, § 8, mentioned in this section, and is incorporated in said section as set forth ante, § 3899.

§ 3905. (Act July 1, 1902, c. 1369, § 84.) Application of laws relating to shipping, customs duties, seamen, health, etc., to vessels making voyages between the Philippine Islands and the United States, vessels and goods arriving from said Islands, seamen on voyages going to said Islands, etc.; application of laws concerning transit of merchandise through the United States, to merchandise destined to any of its possessions or from them to foreign countries; effect of act on previous provisions.

That the laws relating to entry, clearance, and manifests of steamships and other vessels arriving from or going to foreign ports shall apply to voyages each way between the Philippine Islands and the United States and the possessions thereof, and all laws relating to the collection and protection of customs duties not inconsistent with the Act of Congress of March eighth, nineteen hundred and two, "temporarily to provide revenue for the Philippine Islands," shall ap-
in the case of vessels and goods arriving from said Islands in the United States and its aforesaid possessions.

The laws relating to seamen on foreign voyages shall apply to seamen on vessels going from the United States and its possessions aforesaid to said Islands, the customs officers there being for this purpose substituted for consular officers in foreign ports.

The provisions of chapters six and seven, title forty-eight, Revised Statutes, so far as now in force, and any amendments thereof, shall apply to vessels making voyages either way between ports of the United States or its aforesaid possessions and ports in said Islands; and the provisions of law relating to the public health and quarantine shall apply in the case of all vessels entering a port of the United States or its aforesaid possessions from said Islands, where the customs officers at the port of departure shall perform the duties required by such law of consular officers in foreign ports.

Section three thousand and five, Revised Statutes, as amended, and other existing laws concerning the transit of merchandise through the United States, shall apply to merchandise arriving at any port of the United States destined for any of its insular and continental possessions, or destined from any of them to foreign countries.

Nothing in this Act shall be held to repeal or alter any part of the Act of March eighth, nineteen hundred and two, aforesaid, or to apply to Guam, Tutuila, or Manua, except that section eight of an Act entitled "An Act to revise and amend the tariff laws of the Philippine Archipelago," enacted by the Philippine Commission on the seventeenth of September, nineteen hundred and one, and approved by an Act entitled "An Act temporarily to provide revenues for the Philippine Islands, and for other purposes," approved March eighth, nineteen hundred and two, is hereby amended so as to authorize the Civil Governor thereof in his discretion to establish the equivalent rates of the money in circulation in said Islands with the money of the United States as often as once in ten days. (32 Stat. 711.)

The laws relating to entry, clearance, and manifests of vessels, mentioned in this section, are contained in Title XXXIV, "Collection of Duties," c. 4, and in Title XLVIII, "Regulation of Commerce and Navigation," c. 2; and the laws relating to the collection, etc., of customs duties, also mentioned therein, are contained in Title XXXIV, "Collection of Duties."

The laws relating to seamen on foreign voyages, mentioned in this section, are contained in Title LIII, "Merchant Seamen."

R. S. Title XLVIII, cc. 6, 7, mentioned in this section and amendments thereof, are set forth post, §§ 7997-8038; and provisions relating to public health and quarantine, also mentioned therein, are contained in Title LVIII, "The Public Health."

R. S. § 3005, as amended, mentioned in this section, is set forth post, § 5690.

The authentication of invoices of merchandise subject to duty, shipped to the United States from the Philippine Islands, may be made by the collector or a deputy collector of customs, by an amendment of R. S. § 2844, by Act June 29, 1906, c. 5569, which is incorporated in R. S. § 2844, post. § 5337.

The provisions of sections 1-5 of Act March 8, 1902, c. 140, 32 Stat. 54, mentioned in this section, related to the Philippine tariff, tonnage dues, licenses to vessels and lighterage, and were either temporary or superseded by subsequent tariff acts. Sections 6, 7, related to drawbacks of United States internal revenue taxes and customs duties on articles shipped to the Philip-
pines, and are set forth post, §§ 5674, 5675. Section 8 made the laws levying and providing for the collection of the tariff applicable to articles coming from the Philippines to the United States, and is set forth post, § 5834. Section 9 prescribed the evidence necessary to convict of treason and is set forth ante, § 3811.

R. S. §§ 4197–4200, post, §§ 7780–7792, were made applicable to trade between the United States and Hawaii, Porto Rico, Alaska, the Philippine Islands, Guam, and its other noncontiguous territory, and in the trade conducted between said islands and territory, and in shipments from said islands or territory to other parts of the United States, by Act April 29, 1902, c. 637, ante, § 3823.

The rates of duty levied upon articles imported into the United States from foreign countries were levied upon like articles coming from the Philippines, except those produced or manufactured in the islands which were admitted free under certain restrictions, by the Underwood Tariff Act, Act Oct. 3, 1913, c. 16, § IV, C, post, § 5294.

A tax equal to the Philippine internal-revenue tax was levied upon all articles coming into the Philippines from the United States or from other countries, and a tax equal to the United States internal-revenue tax upon articles coming from the Philippines into the United States by further provisions of said Act Oct. 3, 1913, c. 16, § IV, C, post, § 5294.

§ 3906. (Act July 1, 1902, c. 1369, § 86.) Right to annul laws reserved by Congress; report by Commission to Secretary of War.

All laws passed by the government of the Philippine Islands shall be reported to Congress, which hereby reserves the power and authority to annul the same, and the Philippine Commission is hereby directed to make annual report of all its receipts and expenditures to the Secretary of War. (32 Stat. 712.)

§ 3907. (Act Feb. 6, 1905, c. 453, § 1.) Philippine government bonds exempt from taxation.

All bonds issued by the government of the Philippine Islands, or by its authority, shall be exempt from taxation by the Government of the United States, or by the government of the Philippine Islands or of any political or municipal subdivision thereof, or by any State, or by any county, municipality, or other municipal subdivision of any State or Territory of the United States, or by the District of Columbia. (33 Stat. 689.)

This section and the four sections next following were part of an act entitled "An act to amend an act approved July first, nineteen hundred and two, entitled 'An act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes,' and to amend an act approved March eighth, nineteen hundred and two, entitled 'An act temporarily to provide revenue for the Philippine Islands, and for other purposes,' and to amend an act approved March second, nineteen hundred and three, entitled 'An act to establish a standard of value and to provide for a coinage system in the Philippine Islands,' and to provide for the more efficient administration of civil government in the Philippine Islands, and for other purposes."

Section 3 of said act amended Act July 1, 1902, c. 1369, § 86, and is incorporated into that section as set forth ante, § 3876.

Section 7 of the act fixed the compensation of the supreme court justices and provided for the designation of a temporary judge when necessary to constitute a quorum and is set forth ante, § 3819.

Section 8 of the act changed the designation of the civil governor to that of governor-general and is set forth ante, § 3805.

Section 9 of the act amended Act July 1, 1902, c. 1369, §§ 22–25, 29, 31, 36, Comp. St. '13–99 (1569)
§ 3907. THE TERRITORIES AND INSULAR POSSESSIONS (Tit. 28)

37, 38, 58 and 58, and is incorporated into those sections as set forth ante, §§ 3832-3833, 3839, 3841, 3846, 3847, 3848, 3882, 3888.
Section 10 of the act amended Act March 2, 1903, c. 980, § 8, and is incorporated into that section as set forth ante, § 3889.
Section 11 of the act authorized the Philippine government to modify, suspend or repeal the provisions respecting tonnage dues enacted by the Philippine Commission, and ratified by Act March 8, 1902, c. 140, 32 Stat. 54. It was superseded by later provisions levying tonnage dues, of Act March 3, 1905, c. 1408, §§ 14, 15, 33 Stat. 975.
Section 12 of the act repealed all acts and parts of acts inconsistent therewith.

§ 3908. (Act Feb. 6, 1905, c. 453, § 2.) Issuance of Philippine government bonds for public improvements authorized; maximum amount; approval of President required.

For the purpose of providing funds to construct port and harbor works, bridges, roads, buildings for provincial and municipal schools, court-houses, penal institutions, and other public improvements for the development of the Philippine Islands by the general government thereof, the said government is authorized from time to time to incur indebtedness, borrow money, and to issue and sell therefor (at not less than par value in gold coin of the United States) registered or coupon bonds of such denominations and payable at such time or times, not later than forty years after the date of the approval of this Act, as may be determined by said government, with interest thereof not to exceed four and one-half per centum per annum: Provided, That the entire indebtedness of said government created by the authority conferred by this section shall not exceed at any one time the sum of five million dollars: And provided further, That the law of said government creating the indebtedness and authorizing the issue of the bonds under this section shall be approved by the President of the United States. (33 Stat. 689.)

§ 3909. (Act Feb. 6, 1905, c. 453, § 4.) Government authorized to guarantee railroad bonds; contract of guaranty; signature; provisions; contract indorsed upon bonds; execution restricted; lien for payments made by government; limitation of amount of guaranty; supervision over railroads; appointment of directors; reports by railroads; original jurisdiction of supreme court over guaranty contract; law relating to franchises applicable.

For the purpose of aiding in the construction, equipment, operation, and maintenance of such railroads, using steam, electricity, or other power, in the Philippine Islands as the Philippine government may hereafter specifically authorize, the said government is empowered to enter into a contract of guaranty with any railroad company organized pursuant to the laws of said government or of the United States or any state thereof undertaking to construct, equip, operate, and maintain any such railroad, whereby the said government shall guarantee interest, at not exceeding four per centum per annum upon first lien bonds to be issued by such company, properly secured by mortgage (1570)
or deed of trust upon the said railroad, its equipment, franchises, and other property, real, personal, and mixed, then owned and thereafter to be acquired.

Such contract of guaranty shall be signed on behalf of said government by the governor-general thereof, and on behalf of the railroad company undertaking the construction, equipment, maintenance, and operation of said railroad by the chief officer thereof, thereunto duly authorized by the stockholders and directors of the same, and shall contain, among others, the following provisions:

First. That the total amount of bonds the interest upon which is to be guaranteed shall in no event exceed the amount actually invested in cash in the construction and equipment of such railroad, to be determined as hereinafter provided.

Second. That no debt except as above provided shall be incurred by the said undertaking railroad company, its successors or assigns, by which a lien shall be created upon such railroad, its equipment or other property, prior to the lien of said government to secure the repayment of the interest paid by it under said guaranty without the consent of Congress.

Third. That the said railroad shall be constructed and equipped within the time limited in the first instance by the Philippine government, or any extension of said time granted by said government for good cause shown.

Fourth. That after the construction and equipment of said railroad in accordance with the foregoing provisions and all others of the contract of guaranty, the railroad shall apply its gross earnings as follows: First, to the necessary operating expenses, including reasonable expenses of the corporation; second, to the necessary and ordinary repairs of said railroad and its equipment; third, to such betterments and extraordinary repairs of said railroad or equipment as may be first by the governor-general of the islands, in writing, expressly consented to; fourth, to the payment of the interest on the bonds, the interest on which to any extent shall have been guaranteed by the Philippine government under this section.

The contract of guaranty shall be in substance indorsed upon said bonds and signed by the treasurer of said government, and the said contract of guaranty shall not be executed except upon satisfactory proof of the completion of the railroad in sections of not less than twenty continuous miles each, and in such proportion, to be fixed from time to time by said government, as the actual capital invested in completed road and acquired equipment shall bear to the capital required for the completion and equipment of the entire road, to be determined by the said government.

All payments made under any such guaranty shall be from the time the same are paid a lien upon said railroad and its property then owned and thereafter to be acquired subject only to the lien of the mortgage or deed of trust executed to secure the bonds, the interest upon which shall have been so guaranteed, and the total sum paid under such guaranty shall at the expiration thereof be payable to said Philip-
pine government upon demand, and in default of such payment the
said lien shall be immediately foreclosable.

Provided, That in no event shall the total annual contingent liability
of said government under the guaranties authorized by this section at
any time exceed the sum of one million two hundred thousand dollars,
and no such guaranty shall continue for a longer period than thirty
years.

For the further security of the Philippine government said govern-
ment shall declare the proper rules for ascertaining clearly the cash
capital actually invested in said railroads and the net income actually
received on said capital so invested, and shall provide for supervision
by said Philippine government, through the auditing, engineering and
railroad bureaus thereof and by such other agencies as may be fixed
by law, of the conduct of the finances of the road, and of its location,
construction, operation, and maintenance.

The Philippine government shall appoint two members of the board
of directors of any undertaking company the interest on whose bonds
shall be guaranteed as provided in this section.

Each such railroad company shall make such reports from time
to time as to its receipts and expenditures, in such form and substance
and sworn to by such officials, as may be prescribed by the Philippine
government.

The supreme court of the Philippine Islands shall have original and
exclusive jurisdiction in all actions, proceedings or suits at law or in
equity brought by the Philippine government against any person or
corporation involving the construction of this section or any right
existing under, duty enjoined or act prohibited by said section or any
contract made in pursuance thereof; and jurisdiction is hereby vested
in the supreme court to make such order, to enter such judgment de-
cree and to take such proceedings in enforcement thereof as may be
proper. During the vacations of said court the chief justice or any
judge thereof shall have all the power to grant restraining orders, or-
ders of injunction, to appoint receivers, or to do any other act un-
der authority herein granted, that a judge of a court of general ju-
risdiction may do in the vacation of court.

Section seventy-four of an Act entitled "An Act temporarily to
provide for the administration of the affairs of civil government in
the Philippine Islands, and for other purposes," approved July first,
nineteen hundred and two, so far as the same is not in conflict with the
provisions of this section, is hereby made applicable to the corpora-
tions the interest upon whose bonds or any part thereof shall be guar-
anteed under the provisions hereof. (33 Stat. 690.)

See notes to section 1 of this act, ante, § 3907.

Act July 1, 1902, c. 1396, § 74, mentioned in the last paragraph of this
section, is set forth ante, § 3884.

§ 3910. (Act Feb. 6, 1905, c. 453, § 5.) Railroad material may be
admitted free of duty.

Material imported into the Philippine Islands for the construction
and equipment of railroads therein may, in the discretion of the gen-
(1572)
§ 3911. (Act Feb. 6, 1905, c. 453, § 6.) Administration of immigration laws in force in Philippine Islands.

That the immigration laws of the United States in force in the Philippine Islands shall be administered by the officers of the general government thereof designated by appropriate legislation of said government, and all moneys collected under said laws as duty or head tax on alien immigrants coming into said islands shall not be covered into the general fund of the Treasury of the United States, but shall be paid into the treasury of said islands to be used and expended for the government and benefit of said islands. (33 Stat. 692.)

A head tax upon all aliens entering the United States was levied by Act Feb. 20, 1907, c. 1184, § 1, post, § 4242, and was required to be covered into the United States Treasury by Act March 4, 1909, c. 299, § 1, post, § 4243.

The laws relating to the exclusion of Chinese from the United States were made applicable, with certain modifications, to the Philippine Islands, by Act April 29, 1902, c. 641, post, §§ 4337-4339.

§ 3912. (Act April 29, 1908, c. 152, § 1.) Government of Philippine Islands authorized temporarily to regulate transportation of merchandise and passengers between ports, etc., in Philippine Archipelago.

Until Congress shall have authorized the registry as vessels of the United States of vessels owned in the Philippine Islands, the government of the Philippine Islands is hereby authorized to adopt, from time to time, and enforce regulations governing the transportation of merchandise and passengers between ports or places in the Philippine Archipelago. (35 Stat. 70.)

This was the first section of an act entitled "An act to repeal an act approved April thirtieth, nineteen hundred and six, entitled "An act to regulate shipping in trade between ports of the United States and ports or places in the Philippine Archipelago, between ports or places in the Philippine Archipelago, and for other purposes," and for other purposes."

Section 2 of said Act April 29, 1908, c. 152, prescribed the tonnage duties payable on all foreign vessels coming into the United States from the Philippine Islands, and is set forth post, § 7813.

Sections 3-5 of said act are set forth post, §§ 3913-3915.

Section 6 of said act repealed Act April 30, 1906, c. 2071, 34 Stat. 154, and all conflicting laws and parts of laws. Said Act April 30, 1906, c. 2071, contained different provisions relating to the same subject, re-enacted from the previous Act April 15, 1904, c. 1314, 33 Stat. 181, which was superseded thereby.

§ 3913. (Act April 29, 1908, c. 152, § 3.) Restrictions on transportation of passengers and merchandise between ports of United States not applicable to foreign vessels engaging in trade between Philippine Islands and United States.

The provisions of law restricting to vessels of the United States the transportation of passengers and merchandise directly or indirectly from one port of the United States to another port of the United States shall not be applicable to foreign vessels engaging in trade between the Philippine Islands and the United States. (35 Stat. 70.)

See notes to section 1 of this act, ante, § 3912.
§ 3914. (Act April 29, 1908, c. 152, § 4.) Licenses to vessels in lightering or other harbor business in Philippine Islands.

The Philippine Commission shall be authorized and empowered to issue licenses to engage in lightering or other exclusively harbor business to vessels or other craft actually engaged in such business at the date of the passage of this Act and to vessels or other craft built in the Philippine Islands or in the United States and owned by citizens of the United States or by inhabitants of the Philippine Islands. (35 Stat. 70.)

See notes to section 1 of this act, ante, § 3912.

This section superseded a previous similar provision contained in Act March 8, 1902, c. 140, § 3, 32 Stat. 54.

§ 3915. (Act April 29, 1908, c. 152, § 5.) Administration by Government of Philippine Islands of navigation laws in regard to vessels arriving in Philippine Islands.

Such of the navigation laws of the United States as are in force in the Philippine Islands in regard to vessels arriving in the Philippine Islands from the mainland territory and other insular possessions of the United States shall continue to be administered by the proper officials of the government of the Philippine Islands. (35 Stat. 70.)

See notes to section 1 of this act, ante, § 3912.

CHAPTER THREE E

Guano Islands

This chapter, inserted here as additional to the original chapters of Title XXIII of the Revised Statutes, includes R. 8, §§ 5570-5578, relating to the acquisition and control of guano islands. These sections constituted a separate title in the Revised Statutes, Title LXXII, "Guano Islands," but since Title XXIII, in this compilation, includes the insular possessions, as well as the Territories, of the United States, those sections are made a chapter of this title.

Sec. 3916. Claim of United States to islands.

Sec. 3917. Notice of discovery, and proofs to be furnished.

Sec. 3918. Completion of proof in case of death of discoverer.

Sec. 3919. Exclusive privileges of discoverer.

Sec. 3920. Restrictions upon exportation.

Sec. 3921. Regulation of guano trade.

Sec. 3922. Criminal jurisdiction.

Sec. 3923. Employment of land and naval forces.

Sec. 3924. Right to abandon island.

§ 3916. (R. S. § 5570.) Claim of United States to islands.

Whenever any citizen of the United States discovers a deposit of guano on any island, rock, or key, not within the lawful jurisdiction of any other government, and not occupied by the citizens of any other government, and takes peaceable possession thereof, and occupies the same, such island, rock, or key may, at the discretion of the President, be considered as appertaining to the United States.

Act Aug. 18, 1856, c. 164, § 1, 11 Stat. 119.

(1574)
§ 3917. (R. S. § 5571.) Notice of discovery, and proofs to be furnished.

The discoverer shall, as soon as practicable, give notice, verified by affidavit, to the Department of State, of such discovery, occupation, and possession, describing the island, rock, or key, and the latitude and longitude thereof, as near as may be, and showing that such possession was taken in the name of the United States; and shall furnish satisfactory evidence to the State Department that such island, rock, or key was not, at the time of the discovery thereof, or of the taking possession and occupation thereof by the claimants, in the possession or occupation of any other government or of the citizens of any other government, before the same shall be considered as appertaining to the United States.

Act Aug. 18, 1856, c. 164, § 1, 11 Stat. 119.

§ 3918. (R. S. § 5572.) Completion of proof in case of death of discoverer.

If the discoverer dies before perfecting proof of discovery or fully complying with the provisions of the preceding section, his widow, heir, executor, or administrator, shall be entitled to the benefits of such discovery, upon complying with the provisions of this Title; but nothing herein shall [be held to impair any rights of discovery] or any assignment by a discoverer heretofore recognized by the United States.

Act April 2, 1872, c. 81, § 1, 17 Stat. 48.

§ 3919. (R. S. § 5573.) Exclusive privileges of discoverer.

The discoverer, or his assigns, being citizens of the United States, may be allowed, at the pleasure of Congress, the exclusive right of occupying such island, rocks, or keys, for the purpose of obtaining guano, and of selling and delivering the same to citizens of the United States, to be used therein, and may be allowed to charge and receive for every ton thereof delivered alongside a vessel, in proper tubs, within reach of ship's tackle, a sum not exceeding eight dollars per ton for the best quality, or four dollars for every ton taken while in its native place of deposit.


§ 3920. (R. S. § 5574.) Restrictions upon exportation.

No guano shall be taken from any such island, rock, or key, except for the use of the citizens of the United States or of persons resident therein. The discoverer, or his widow, heir, executor, administrator, or assigns, shall enter into bond, in such penalty and with such sureties as may be required by the President, to deliver the guano to citizens of the United States, for the purpose of being used therein, and to none others, and at the price prescribed, and to provide all necessary facilities for that purpose within a time to be fixed in the bond; and any breach of the provisions thereof shall be deemed a forfeiture of all rights accruing under and by virtue of this Title. This section shall, however, be suspended in relation to all persons who
have complied with the provisions of this Title, for five years from and after the fourteenth day of July, eighteen hundred and seventy-two.

§ 3921. (R. S. § 5575.) Regulation of guano trade.
The introduction of guano from such islands, rocks, or keys, shall be regulated as in the coasting-trade between different parts of the United States, and the same laws shall govern the vessels concerned therein.
Act Aug. 18, 1856, c. 164, § 3, 11 Stat. 120.

§ 3922. (R. S. § 5576.) Criminal jurisdiction.
All acts done, and offenses or crimes committed, on any such island, rock, or key, by persons who may land thereon, or in the waters adjacent thereto, shall be deemed committed on the high seas, on board a merchant-ship or vessel belonging to the United States; and shall be punished according to the laws of the United States relating to such ships or vessels and offenses on the high seas, which laws for the purpose aforesaid are extended over such islands, rocks, and keys.
Act Aug. 18, 1856, c. 164, § 6, 11 Stat. 120.
This section, in so far as it applied to the crimes defined in chapter 11 of the Criminal Code, post, §§ 10446-10462, was superseded by the provision making punishable those crimes when committed "on any island, rock, or key, containing deposits of guano, which may, at the discretion of the President, be considered as appertaining to the United States," contained in Crim. Code, § 272, subd. 4, post, § 10445.

§ 3923. (R. S. § 5577.) Employment of land and naval forces.
The President is authorized, at his discretion, to employ the land and naval forces of the United States to protect the rights of the discoverer or of his widow, heir, executor, administrator, or assigns.
Act Aug. 18, 1856, c. 164, § 5, 11 Stat. 120.

§ 3924. (R. S. § 5578.) Right to abandon islands.
Nothing in this Title contained shall be construed as obliging the United States to retain possession of the islands, rocks, or keys, after the guano shall have been removed from the same.
Act Aug. 18, 1856, c. 164, § 4, 11 Stat. 120.

(1576)
TITLE XXIV
CIVIL RIGHTS

Sec. 3925. Equal rights under the law.
3926. Equal rights in inns, public conveyances, theaters, etc.
3927. Penalty for violation of act; election of remedy.
3928. Jurisdiction of prosecutions and actions for violation of act; officers required to institute and prosecute proceedings; failure of district attorney to prosecute.
3929. Jurors not to be excluded on account of race or color.
3930. Review of proceedings under act.
3931. Rights of citizens in respect to real and personal property.
3932. Civil action for deprivation of rights.
3933. (1) Conspiracy to prevent officer from performing duties.
(2) Conspiracy to intimidate party, witness or juror, or to obstruct justice.
(3) Conspiracy to deprive a citizen of his rights or privilege.
3934. Action for neglect to prevent conspiracy.
3935. District attorney, etc., to prosecute.
3936. Commissioners.
3937. They may appoint persons to execute warrants, etc.
3938. Marshal to obey precepts, etc.
3939. Marshal refusing to receive or execute process.
3940. Fees of district attorney, etc.
3941. Of persons appointed to execute process, etc.
3942. Speedy trial.
3943. Aid of the military and naval forces.
3944. Peonage abolished.
3945. Forgoing section, how enforced.

§ 3925. (R. S. § 1977.) Equal rights under the law.
All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses, and exactions of every kind, and to no other.

Act May 81, 1870, c. 114, § 16, 16 Stat. 144.

§ 3926. (Act March 1, 1875, c. 114, § 1.) Equal rights in inns, public conveyances, theaters, etc.
All persons within the jurisdiction of the United States shall be entitled to the full and equal enjoyment of the accommodations, advantages, facilities, and privileges of inns, public conveyances on land or water, theaters, and other places of public amusement; subject only to the conditions and limitations established by law, and applicable alike to citizens of every race and color, regardless of any previous condition of servitude. (18 Stat. 335.)

This section and the four sections next following constituted the Civil Rights Act of March 1, 1875, c. 114, entitled "An act to protect all citizens in their civil and legal rights."

The preamble of the act was:

"Whereas, it is essential to just government we recognize the equality of all men before the law, and hold that it is the duty of government in its dealings"
§ 3926. (Tit. 24) CIVIL RIGHTS

with the people to mete out equal and exact justice to all, of whatever nativity, race, color, or persuasion, religious or political; and it being the appropriate object of legislation to enact great fundamental principles into law: Therefore.

Sections 1 and 2 of this act were held unconstitutional, at least so far as their operation in the several States was concerned, but without deciding whether the law was operative in the Territories and District of Columbia, Civil Rights Cases, 100 U. S. 8.

Depriving citizens of their civil rights, under color of any law, etc., was made punishable by R. S. § 5510, which was incorporated in Crim. Code, § 20, post, § 10184.

§ 3927. (Act March 1, 1875, c. 114, § 2.) Penalty for violation of act; election of remedy.

Any person who shall violate the foregoing section by denying to any citizen, except for reasons by law applicable to citizens of every race and color, and regardless of any previous condition of servitude, the full enjoyment of any of the accommodations, advantages, facilities, or privileges in said section enumerated, or by aiding or inciting such denial, shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered in an action of debt, with full costs; and shall also, for every such offense, be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be fined not less than five hundred nor more than one thousand dollars, or shall be imprisoned not less than thirty days nor more than one year: Provided, That all persons may elect to sue for the penalty aforesaid or to proceed under their rights at common law and by State statutes; and having so elected to proceed in the one mode or the other, their right to proceed in the other jurisdiction shall be barred. But this proviso shall not apply to criminal proceedings, either under this act or the criminal law of any State: And provided further, That a judgment for the penalty in favor of the party aggrieved, or a judgment upon an indictment, shall be a bar to either prosecution respectively. (18 Stat. 336.)

See note to preceding section of this act, ante, § 3826.

Offenses against the civil rights of citizens were defined and punished by Crim. Code, §§ 19–21, post, §§ 10183–10186.

§ 3928. (Act March 1, 1875, c. 114, § 3.) Jurisdiction of prosecutions and actions for violation of act; officers required to institute and prosecute proceedings; failure of district attorney to prosecute.

The district [and circuit] courts of the United States shall have, exclusively of the courts of the several States, cognizance of all crimes and offenses against, and violations of, the provisions of this act; and actions for the penalty given by the preceding section may be prosecuted in the territorial, district, or circuit courts of the United States wherever the defendant may be found, without regard to the other party; and the district attorneys, marshals, and deputy marshals of the United States, and commissioners appointed by the circuit and territorial courts of the United States, with powers of arresting and imprisoning or bailing offenders against the laws of the United States, are hereby specially
authorized and required to institute proceedings against every person who shall violate the provisions of this act, and cause him to be arrested and imprisoned or bailed, as the case may be, for trial before such court of the United States, or territorial court, as by law has cognizance of the offense, except in respect of the right of action accruing to the person aggrieved; and such district attorneys shall cause such proceedings to be prosecuted to their termination as in other cases: Provided, That nothing contained in this section shall be construed to deny or defeat any right of civil action accruing to any person, whether by reason of this act or otherwise; and any district attorney who shall willfully fail to institute and prosecute the proceedings herein required, shall, for every such offense, forfeit and pay the sum of five hundred dollars to the person aggrieved thereby, to be recovered by an action of debt, with full costs, and shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not less than one thousand nor more than five thousand dollars: And provided further, That a judgment for the penalty in favor of the party aggrieved against any such district attorney, or a judgment upon an indictment against any such district attorney, shall be a bar to either prosecution respectively. (18 Stat. 336.)

The words "and circuit," inclosed in brackets in this section, were superseded by the abolition of the circuit courts and the transfer of their powers and rules to the district courts, by Jud. Code, §§ 289-291, ante, §§ 1290-1290.

Jurisdiction of suits for deprivation of civil rights was given to the district courts by R. S. § 585, par. 12, incorporated in Jud. Code, § 24, par. 14, ante, § 991 (14); and jurisdiction on writ of error or appeal in such cases, without regard to the sum or value in dispute, was given to the Supreme Court by R. S. § 689, par. 4, superseded by Act March 3, 1881, c. 517, §§ 4-6, incorporated in Jud. Code, §§ 1290, 238, 236, ante, §§ 1290, 1216, 1218.

§ 3929. (Act March 1, 1875, c. 114, § 4.) Jurors not to be excluded on account of race or color.

No citizen possessing all other qualifications which are or may be prescribed by law shall be disqualified for service as grand or petit juror in any court of the United States, or of any State, on account of race, color, or previous condition of servitude; and any officer or other person charged with any duty in the selection or summoning of jurors who shall exclude or fail to summon any citizen for the cause aforesaid shall, on conviction thereof, be deemed guilty of a misdemeanor, and be fined not more than five thousand dollars. (18 Stat. 336.)

This section has been held constitutional. Ex parte Virginia, 100 U. S. 351.

A provision similar to that of the first part of this section was contained in the last clause of Act June 30, 1879, c. 52, § 2, incorporated in Jud. Code, § 278, ante, § 1255.

§ 3930. (Act March 1, 1875, c. 114, § 5.) Review of proceedings under act.

All cases arising under the provisions of this act in the courts of the United States shall be reviewable by the Supreme Court of the United States, without regard to the sum in controversy,
§ 3930  CIVIL RIGHTS  (Tit. 24)

under the same provisions and regulations as are now provided by law for the review of other causes in said court. (18 Stat. 337.)

See notes to section 3 of this act, ante, § 3928.

§ 3931. (R. S. § 1978.) Rights of citizens in respect to real and personal property.

All citizens of the United States shall have the same right, in every State and Territory, as is enjoyed by white citizens thereof to inherit, purchase, lease, sell, hold, and convey real and personal property.

Act April 9, 1866, c. 31, § 1, 14 Stat. 27.

§ 3932. (R. S. § 1979.) Civil action for deprivation of rights.

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.


Jurisdiction of suits for deprivation of civil rights was given to the district courts by R. S. § 503, par. 12, incorporated in Jud. Code, § 24, par. 14, ante, § 901 (14).

§ 3933. (R. S. § 1980.) (1) Conspiracy to prevent officer from performing duties.

First. If two or more persons in any State or Territory conspire to prevent, by force, intimidation, or threat, any person from accepting or holding any office, trust, or place of confidence under the United States, or from discharging any duties thereof; or to induce by like means any officer of the United States to leave any State, district, or place, where his duties as an officer are required to be performed, or to injure him in his person or property on account of his lawful discharge of the duties of his office, or while engaged in the lawful discharge thereof, or to injure his property so as to molest, interrupt, hinder, or impede him in the discharge of his official duties:


Jurisdiction was given to the district courts of all suits authorized by law to be brought for the recovery of damages on account of any injury to person or property, or because of the deprivation of any right or privilege of a citizen, by any act done in furtherance of any conspiracy mentioned in this section, by R. S. § 503, par. 11, incorporated in Jud. Code, § 24, par. 12, ante, § 901 (12).

Conspiracies such as are described in this subsection were made punishable by R. S. § 5518, incorporated in Crim. Code, § 21, post, § 10185.

(2) Conspiracy to intimidate party, witness or juror, or to obstruct justice.

Second. If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account (1580)
of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purpose of impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;


See note to subsection 1.

Conspiracies such as are described in this subsection were made punishable by R. S. § 5406, incorporated in Crim. Code, § 136, post, § 10216.

(3) Conspiracy to deprive a citizen of his rights or privileges.

Third. If two or more persons in any State or Territory conspire, or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any lawfully qualified person as an elector for President or Vice-President, or as a member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.


See note to subsection 1.

Conspiracies such as are described in this subsection were made punishable by R. S. § 5508, incorporated in Crim. Code, § 19, post, § 10183.

§ 3934. (R. S. § 1981.) Action for neglect to prevent conspiracy.

Every person who, having knowledge that any of the wrongs conspired to be done, and mentioned in the preceding section, are about to be committed, and having power to prevent or aid in preventing the commission of the same, neglects or refuses so to do, if such wrongful act be committed, shall be liable to the party injured, or his legal representatives, for all damages caused by such wrongful
§ 3934  CIVIL RIGHTS

act, which such person by reasonable diligence could have prevented; and such damages may be recovered in an action on the case; and any number of persons guilty of such wrongful neglect or refusal may be joined as defendants in the action; and if the death of any party be caused by any such wrongful act and neglect, the legal representatives of the deceased shall have such action therefor, and may recover not exceeding five thousand dollars damages therein, for the benefit of the widow of the deceased, if there be one, and if there be no widow, then for the benefit of the next of kin of the deceased. But no action under the provisions of this section shall be sustained which is not commenced within one year after the cause of action has accrued.

Act April 20, 1871, c. 22, § 6, 17 Stat. 15.

Jurisdiction of all suits which may be brought under this section was given to the district courts, by Jud. Code, § 24, par. 13, ante, § 391 (13).

§ 3935. (R. S. § 1982.) District attorney, etc., to prosecute.

The district attorneys, marshals, and deputy marshals, the commissioners appointed by the circuit and territorial courts, with power to arrest, imprison, or bail offenders, and every other officer who is especially empowered by the President, are authorized and required, at the expense of the United States, to institute prosecutions against all persons violating any of the provisions of chapter seven of the Title "Crimes," and to cause such persons to be arrested, and imprisoned or bailed, for trial before the court of the United States or the territorial court having cognizance of the offense.


The office of circuit court commissioner, under R. S. § 627, was abolished, and the office of United States commissioner substituted therefor, by Act May 28, 1866, c. 252, § 10, ante, § 1337. The United States commissioners so created were given all the powers and required to perform all the duties of the former circuit court commissioners.

Chapter 7 of the Title "Crimes," of the Revised Statutes, referred to in this section, related to crimes against the elective franchise and civil rights of citizens. Most of its provisions were incorporated in Chapters 3, 6, and 10 of the Criminal Code, post, §§ 19–23, 125–146, 249–271, and were repealed by section 341 of said Code, post, § 10615.

§ 3936. (R. S. § 1983.) Commissioners.

The circuit courts of the United States and the district courts of the Territories, from time to time, shall increase the number of commissioners, so as to afford a speedy and convenient means for the arrest and examination of persons charged with the crimes referred to in the preceding section; and such commissioners are authorized and required to exercise all the powers and duties conferred on them herein with regard to such offenses in like manner as they are authorized by law to exercise with regard to other offenses against the laws of the United States.


See note to Rev. St. § 1982, ante, § 3935.

(1582)
§ 3937. (R. S. § 1984.) They may appoint persons to execute warrants, etc.

The commissioners authorized to be appointed by the preceding section are empowered, within their respective counties, to appoint, in writing, under their hands, one or more suitable persons, from time to time, who shall execute all such warrants or other process as the commissioners may issue in the lawful performance of their duties, and the persons so appointed shall have authority to summon and call to their aid the bystanders or posse comitatus of the proper county, or such portion of the land or naval forces of the United States, or of the militia, as may be necessary to the performance of the duty with which they are charged; and such warrants shall run and be executed anywhere in the State or Territory within which they are issued.

See note to R. S. § 1982, ante, § 3935.

The Army is not to be used, as a posse comitatus or otherwise, for the purpose of executing the laws, except as expressly authorized by the Constitution or by act of Congress, by Act June 18, 1878, c. 263, § 15, ante, § 1992.

Obstructing the execution of process issued under the provisions of this section and the section next following was made punishable by R. S. § 5516, incorporated in Crim. Code, § 141, post, § 10831.

§ 3938. (R. S. § 1985.) Marshal to obey precepts, etc.

Every marshal and deputy marshal shall obey and execute all warrants or other process, when directed to him, issued under the provisions hereof.

A marshal or deputy marshal, refusing to receive or execute process issued under this section, was made liable to the party aggrieved thereby, by R. S. § 5517, post, § 3939.

Obstructing the execution of process under the provisions of this section and the section next preceding was made punishable by R. S. § 5518, incorporated in Crim. Code, § 141, post, § 10831.

§ 3939. (R. S. § 5517.) Marshal refusing to receive or execute process.

Every marshal and deputy marshal who refuses to receive any warrant or other process when tendered to him, issued in pursuance of the provisions of section nineteen hundred and eighty-five, Title "Civil Rights," or refuses or neglects to use all proper means diligently to execute the same, shall be liable to a fine in the sum of one thousand dollars, for the benefit of the party aggrieved thereby.

Act May 31, 1870, c. 114, § 10, 16 Stat. 142.
R. S. § 1985, mentioned in this section, is set forth ante, § 3938.

§ 3940. (R. S. § 1986.) Fees of district attorney, etc.

The district attorneys, marshals, their deputies, and the clerks of the courts of the United States and territorial courts shall be paid for their services, in cases under the foregoing provisions, the same fees as are allowed to them for like services in other cases; and where the proceedings are before a commissioner he shall be entitled to a (1683)
§ 3940 (Tit. 24) CIVIL RIGHTS

fee of ten dollars for his services in each case, inclusive of all services incidental to the arrest and examination.


Provisions relating to the compensation and fees of district attorneys, marshals and deputies, clerks of courts, and United States commissioners are in Title XIII, "The Judiciary," c. 16.

§ 3941. (R. S. § 1867.) Of persons appointed to execute process, etc.

Every person appointed to execute process under section nineteen hundred and eighty-four shall be entitled to a fee of five dollars for each party he may arrest and take before any commissioner, with such other fees as may be deemed reasonable by the commissioner for any additional services necessarily performed by him, such as attending at the examination, keeping the prisoner in custody, and providing him with food and lodging during his detention, and until the final determination of the commissioner; such fees to be made up in conformity with the fees usually charged by the officers of the courts of justice within the proper district or county, as near as may be practicable, and paid out of the Treasury of the United States on the certificate of the judge of the district within which the arrest is made, and to be recoverable from the defendant as part of the judgment in case of conviction.


See note to R. S. § 1882, ante, § 3835, in regard to commissioners.

§ 3942. (R. S. § 1888.) Speedy trial.

Whenever the President has reason to believe that offenses have been, or are likely to be committed against the provisions of chapter seven of the Title Crimes, within any judicial district, it shall be lawful for him, in his discretion, to direct the judge, marshal, and district attorney of such district to attend at such place within the district, and for such time as he may designate, for the purpose of the more speedy arrest and trial of persons so charged, and it shall be the duty of every judge or other officer, when any such requisition is received by him to attend at the place and for the time therein designated.

Act April 9, 1866, c. 31, § 8, 14 Stat. 29.

Chapter 7 of the Title "Crimes," of the Revised Statutes, referred to in this section, related to crimes against the elective franchise and civil rights of citizens. Most of its provisions were incorporated in chapters 3, 6, and 10 of the Criminal Code, post, §§ 19–26, 125–146, 246–271, and were repealed by section 841 of said Code, post, § 10515.

§ 3943. (R. S. § 1889.) Aid of the military and naval forces.

It shall be lawful for the President of the United States, or such person as he may empower for that purpose, to employ such part of the land or naval forces of the United States, or of the militia, as may be necessary to aid in the execution of judicial process issued under any of the preceding provisions, or as shall be necessary to prevent (1584)
the violation and enforce the due execution of the provisions of this Title.


The Army is not to be used for the purpose of executing the laws, except as expressly authorized, by the Constitution or by act of Congress, by Act June 15, 1878, c. 268, § 15, ante, § 1992.

§ 3944. (R. S. § 1990.) Peonage abolished.

The holding of any person to service or labor under the system known as peonage is abolished and forever prohibited in the Territory of New Mexico, or in any other Territory or State of the United States; and all acts, laws, resolutions, orders, regulations, or usages of the Territory of New Mexico, or of any other Territory or State, which have heretofore established, maintained, or enforced, or by virtue of which any attempt shall hereafter be made to establish, maintain, or enforce, directly or indirectly, the voluntary or involuntary service or labor of any persons as peons, in liquidation of any debt or obligation, or otherwise, are declared null and void.

Act March 2, 1867, c. 187, § 1, 14 Stat. 546.

§ 3945. (R. S. § 1991.) Foregoing section, how enforced.

Every person in the military or civil service in the Territory of New Mexico shall aid in the enforcement of the preceding section.


Holding or returning a person to peonage, or obstructing the enforcement of the provision relating thereto, was punishable by R. S. §§ 5526, 5527, incorporated in Crim. Code, §§ 269, 270, post, §§ 10442, 10443.
TITLE XXV
CITIZENSHIP

§ 3946. (R. S. § 1922.) Who are citizens.
All persons born in the United States and not subject to any foreign power, excluding Indians not taxed, are declared to be citizens of the United States.
Act April 9, 1866, c. 31, § 1, 14 Stat. 27.

All children heretofore born or hereafter born out of the limits and jurisdiction of the United States, whose fathers were or may be at the time of their birth citizens thereof, are declared to be citizens of the United States; but the rights of citizenship shall not descend to children whose fathers never resided in the United States.
Further provisions relating to the protection of children born outside the limits of the United States who are citizens in accordance with the provisions of this section, were made by Act March 2, 1907, c. 2534, § 6, post, § 3963.

§ 3948. (R. S. § 1944.) Citizenship of married women.
Any woman who is now or may hereafter be married to a citizen of the United States, and who might herself be lawfully naturalized, shall be deemed a citizen.
Act Feb. 10, 1855, c. 71, § 2, 10 Stat. 604.
Further provisions relating to the retention of the American citizenship (1586)

Every Indian born within the territorial limits of the United States to whom allotments shall have been made and who has received a patent in fee simple under the provisions of this Act, or under any law or treaty, and every Indian born within the territorial limits of the United States who has voluntarily taken up within said limits his residence, separate and apart from any tribe of Indians therein, and has adopted the habits of civilized life, is hereby declared to be a citizen of the United States, and is entitled to all the rights, privileges, and immunities of such citizens, whether said Indian has been or not, by birth or otherwise, a mem-

(1587)
§ 3951. CITIZENSHIP

The rights and duties of any tribe of Indians within the territorial limits of the United States without in any manner impairing or otherwise affecting the right of any such Indian to tribal or other property. (24 Stat. 390. 31 Stat. 1447. 34 Stat. 182.)

This provision was the concluding part of section 6 of the Indian General Allotment Act of Feb. 8, 1887, c. 119, first cited above.

Said section 6, as originally enacted, did not contain, after the words “to whom allotments shall have been made,” the further clause, “and who has received a patent in fee simple.” That clause was inserted by amendment of the section, making this provision read as set forth here, by Act May 8, 1906, c. 2348, last cited above.

A previous amendment of the section, by Act March 3, 1901, c. 663, 31 Stat. 1447, had inserted, after the words “civilized life,” the words, “and every Indian in Indian Territory.” But said last quoted words were omitted from the section in the above mentioned amendment thereof by Act May 8, 1906, c. 2348, to read as set forth here.

§ 3952. (R. S. § 1966.) Rights as citizens forfeited for desertion, etc.

All persons who deserted the military or naval service of the United States and did not return thereto or report themselves to a provost-marshal within sixty days after the issuance of the proclamation by the President, dated the 11th day of March, 1865, are deemed to have voluntarily relinquished and forfeited their rights of citizenship, as well as their right to become citizens; and such deserters shall be forever incapable of holding any office of trust or profit under the United States, or of exercising any rights of citizens thereof.

Act March 3, 1885, c. 70, § 21, 13 Stat. 490.

Persons afterwards deserting the military or naval service, or departing with intent to avoid any draft into such service, were made liable to the penalties and forfeitures of this section, by R. S. § 1968. But, by amendment of said section by Act Aug. 22, 1912, c. 338, § 1, to read as set forth post. § 3954, said provisions were not to apply to any person thereafter deserting such service in time of peace and the loss of the rights of citizenship imposed by said provisions might be mitigated or remitted by the President in certain cases.

Certain soldiers and sailors were relieved from disability incurred under this section by the provisions of R. S. § 1967, post, § 3953.

Subsequent provisions for removal from the records of charges of desertion against soldiers of the Civil War were made by Act March 2, 1889, c. 390, amended by Act March 2, 1891, c. 498, and subsequent acts, post, §§ 2300–2307, and of such charges against appointed or enlisted men of the Navy or Marine Corps, by Act Aug. 14, 1888, c. 890, amended by Act May 14, 1900, c. 560, ante, §§ 2958, 2960.

§ 3953. (R. S. § 1976.) Certain soldiers and sailors not to incur the forfeitures of the last section.

No soldier or sailor, however, who faithfully served according to his enlistment until the 19th day of April, 1865, and who, without proper authority or leave first obtained, quit his command or refused to serve after that date, shall be held to be a deserter from the Army or Navy; but this section shall be construed solely as a removal of any disability such soldier or sailor may have incurred, under the preceding section, by the loss of citizenship and of the right to hold office, in consequence of his desertion.


(1588)

Rights as citizens forfeited for desertion, or for avoiding a
draft; provisions not to apply to desertions in time of peace;
remission of forfeiture of rights; restrictions on enlistment in
Army of deserters modified.

Every person who hereafter deserts the military or naval ser-
vice of the United States, or who, being duly enrolled, departs the
jurisdiction of the district in which he is enrolled, or goes beyond
the limits of the United States, with intent to avoid any draft into
the military or naval service, lawfully ordered, shall be liable to
all the penalties and forfeitures of section nineteen hundred and
ninety-six of the Revised Statutes of the United States: Provided,
That the provisions of this section and said section nineteen hun-
dred and ninety-six shall not apply to any person hereafter desert-
ing the military or naval service of the United States in time of
peace: And provided further, That the loss of rights of citizen-
ship heretofore imposed by law upon deserters from the military
or naval service may be mitigated or remitted by the President
where the offense was committed in time of peace and where the
exercise of such clemency will not be prejudicial to the public in-
terests: And provided further, That the provisions of section elev-
en hundred and eighteen of the Revised Statutes of the United
States that no deserter from the military service of the United
States shall be enlisted or mustered into the military service, and
the provisions of section two of the Act of Congress approved
August first, eighteen hundred and ninety-four, entitled 'An Act
to regulate enlistments in the Army of the United States,' shall
not be construed to preclude the reenlistment or muster into the
Army of any person who has deserted, or may hereafter desert,
from the military service of the United States in time of peace, or
of any soldier whose service during his last preceding term of en-
listment has not been honest and faithful, whenever the reenlist-
ment or muster into the military service of such person or soldier
shall, in view of the good conduct of such person or soldier sub-
sequent to such desertion or service, be authorized by the Secre-
tary of War.

37 Stat. 356.

This section, as enacted in the Revised Statutes, contained only the provi-
sion preceding the proviso. Said three provisos were added, making the sec-
tion read as set forth here, by amendment by Act Aug. 22, 1912, c. 336, § 1,
cited above.

R. S. § 1998, twice mentioned in this section, is set forth ante, § 3952.
R. S. § 1118, and Act Aug. 1, 1894, c. 179, § 2, also mentioned in the last
proviso of this section, are set forth ante, §§ 1886, 1888.

§ 3955. (R. S. § 1999.) Right of expatriation declared.

Whereas the right of expatriation is a natural and inherent right
of all people, indispensable to the enjoyment of the rights of life,
liberty, and the pursuit of happiness; and whereas in the recognition

(1589)
§ 3955. Citizenship

of this principle this Government has freely received emigrants from all nations, and invested them with the rights of citizenship; and whereas it is claimed that such American citizens, with their descendants, are subjects of foreign states, owing allegiance to the governments thereof; and whereas it is necessary to the maintenance of public peace that this claim of foreign allegiance should be promptly and finally disavowed: Therefore any declaration, instruction, opinion, order, or decision of any officer of the United States which denies, restricts, impairs, or questions the right of expatriation, is declared inconsistent with the fundamental principles of the Republic.


Provisions relating to expatriation of American citizens were made by Act March 2, 1907, c. 2534, § 2, post, § 3956.


All naturalized citizens of the United States, while in foreign countries, are entitled to and shall receive from this Government the same protection of persons and property which is accorded to native-born citizens.


Provisions for naturalization of aliens are contained in Title XXX, "Naturalization."

Besides the provisions of this section and of R. S. § 2001, post, § 3957, for protection of naturalised citizens in foreign countries, provisions for the issue of passports to and protection of persons who have made declaration of intention to become citizens, and as to when naturalised citizens residing abroad shall be presumed to have ceased to be American citizens, were made by Act March 2, 1907, c. 2534, post, §§ 3963–3964.

§ 3957. (R. S. § 2001.) Release of citizens imprisoned by foreign governments to be demanded.

Whenever it is made known to the President that any citizen of the United States has been unjustly deprived of his liberty by or under the authority of any foreign government, it shall be the duty of the President forthwith to demand of that government the reasons of such imprisonment; and if it appears to be wrongful and in violation of the rights of American citizenship, the President shall forthwith demand the release of such citizen, and if the release so demanded is unreasonably delayed or refused, the President shall use such means, not amounting to acts of war, as he may think necessary and proper to obtain or effectuate the release; and all the facts and proceedings relative thereto shall as soon as practicable be communicated by the President to Congress.


See note to preceding section.

§ 3958. (Act March 2, 1907, c. 2534, § 1.) Issue of passports to and protection of persons having made declaration of intention to become citizens.

The Secretary of State shall be authorized, in his discretion, to issue passports to persons not citizens of the United States as follows: Where any person has made a declaration of intention to become such a citizen as provided by law and has resided in the
United States for three years a passport may be issued to him entitling him to the protection of the Government in any foreign country: Provided, That such passport shall not be valid for more than six months and shall not be renewed, and that such passport shall not entitle the holder to the protection of this Government in the country of which he was a citizen prior to making such declaration of intention. (34 Stat. 1228.)

This section and the six sections next following constituted the Expatriation Act of March 2, 1907, entitled "An act in reference to the expatriation of citizens and their protection abroad."

Previous provisions relating to issuance of passports were made by R. S. §§ 4076-4078, set forth, as amended by Act June 14, 1902, c. 1088, post, §§ 7622-7628.

§ 3959. (Act March 2, 1907, c. 2534, § 2.) Expatriation of citizens; presumption as to naturalized citizens residing in foreign state.

Any American citizen shall be deemed to have expatriated himself when he has been naturalized in any foreign state in conformity with its laws, or when he has taken an oath of allegiance to any foreign state.

When any naturalized citizen shall have resided for two years in the foreign state from which he came, or for five years in any other foreign state it shall be presumed that he has ceased to be an American citizen, and the place of his general abode shall be deemed his place of residence during said years: Provided, however, That such presumption may be overcome on the presentation of satisfactory evidence to a diplomatic or consular officer of the United States, under such rules and regulations as the Department of State may prescribe: And provided also, That no American citizen shall be allowed to expatriate himself when this country is at war. (34 Stat. 1228.)

See note to preceding section of this act, ante, § 3958.

The right of expatriation was declared by R. S. § 1090, ante, § 3955.

The cancellation of the certificate of citizenship of a naturalized citizen taking permanent residence in a foreign country was authorized by Act June 29, 1906, c. 3592, § 15, post, § 4574.

§ 3960. (Act March 2, 1907, c. 2534, § 3.) Citizenship of American women marrying foreigners.

Any American woman who marries a foreigner shall take the nationality of her husband. At the termination of the marital relation she may resume her American citizenship, if abroad, by registering as an American citizen within one year with a consul of the United States, or by returning to reside in the United States, or, if residing in the United States at the termination of the marital relation, by continuing to reside therein. (34 Stat. 1228.)

See note to section 1 of this act, ante, § 3968.

§ 3961. (Act March 2, 1907, c. 2534, § 4.) Citizenship of foreign women marrying citizens.

Any foreign woman who acquires American citizenship by marriage to an American shall be assumed to retain the same after the termination of the marital relation if she continue to reside in the United States, unless she makes formal renunciation thereof be-
before a court having jurisdiction to naturalize aliens, or if she resides abroad she may retain her citizenship by registering as such before a United States consul within one year after the termination of such marital relation. (34 Stat. 1229.)

See note to section 1 of this act, ante, § 3968.

A woman married to a citizen, who might herself be lawfully naturalized, is to be deemed a citizen, by R. S. § 1994, ante, § 3948.

§ 3962. (Act March 2, 1907, c. 2534, § 5.) Citizenship of children, born abroad, of alien parents, by naturalization, etc., of parent during minority of child.

A child born without the United States of alien parents shall be deemed a citizen of the United States by virtue of the naturalization of or resumption of American citizenship by the parent: Provided, That such naturalization or resumption takes place during the minority of such child: And provided further, That the citizenship of such minor child shall begin at the time such minor child begins to reside permanently in the United States. (34 Stat. 1229.)

See note to section 1 of this act, ante, § 3968.

§ 3963. (Act March 2, 1907, c. 2534, § 6.) Citizenship of children of citizens, born abroad, and continuing to reside abroad.

All children born outside the limits of the United States who are citizens thereof in accordance with the provisions of section nineteen hundred and ninety-three of the Revised Statutes of the United States and who continue to reside outside the United States shall, in order to receive the protection of this Government, be required upon reaching the age of eighteen years to record at an American consulate their intention to become residents and remain citizens of the United States and shall be further required to take the oath of allegiance to the United States upon attaining their majority. (34 Stat. 1229.)

See note to section 1 of this act, ante, § 3968.

R. S. § 1993, mentioned in this section, is set forth ante, § 3947.

§ 3964. (Act March 2, 1907, c. 2534, § 7.) Duplicates of evidence, registration, etc., required by act, to be filed with Department of State.

Duplicates of any evidence, registration, or other acts required by this Act shall be filed with the Department of State for record. (34 Stat. 1229.)

See note to section 1 of this act, ante, § 3968.

(1592)
TITLE XXVI
THE ELECTIVE FRANCHISE

Sec. 3965. Interference with freedom of elections by officers of Army or Navy.

Sec. 3966. Race, color, or previous condition not to affect the right to vote.

(R. S. § 2002. Repealed.)

This section prohibited military and naval officers from ordering, bringing, or keeping arms or troops at places of election, unless necessary to repel the armed enemies of the United States or keep the peace at the polls. It was repealed by Act Feb. 8, 1894, c. 25, § 1, 28 Stat. 36. R. S. § 5528, however, which made punishable the acts forbidden by this section, was not repealed by said act, and subsequently was incorporated into the Criminal Code, in section 22 thereof, post, § 10186, and was repealed by section 341 of said Code, post, § 10515.

All the other sections of the Revised Statutes included in this title, except sections 2008 and 2004, were also repealed by said Act Feb. 8, 1894, c. 25, § 1, 28 Stat. 36.

See notes to said repealed sections, R. S. §§ 2005–2031, post.

§ 3965. (R. S. § 2003.) Interference with freedom of elections by officers of Army or Navy.

No officer of the Army or Navy of the United States shall prescribe or fix, or attempt to prescribe or fix, by proclamation, order, or otherwise, the qualifications of voters in any State, or in any manner interfere with the freedom of any election in any State, or with the exercise of the free right of suffrage in any State.

Act Feb. 26, 1865, c. 52, § 1, 13 Stat. 431.

Officers of the Army or Navy who intimidate, etc., voters, or who prescribe or attempt to prescribe the qualifications of voters, or who interfere with an officer of election in the discharge of his duties, were punishable by R. S. §§ 5529–5532, which sections were incorporated into the Criminal Code, in sections 24–26 thereof, post, §§ 10188–10190, and were repealed by section 341 of said Code, post, § 10515.

§ 3966. (R. S. § 2004.) Race, color, or previous condition not to affect the right to vote.

All citizens of the United States who are otherwise qualified by law to vote at any election by the people in any State, Territory, district, county, city, parish, township, school district, municipality, or other territorial subdivision, shall be entitled and allowed to vote at all such elections, without distinction of race, color, or previous condition of servitude; any constitution, law, custom, usage, or regulation of any State or Territory, or by or under its authority, to the contrary notwithstanding.

Act May 31, 1870, c. 114, § 1, 16 Stat. 140.

(R. S. §§ 2005–2031. Repealed.)

R. S. § 2006 required the State officials charged with the duty of attending to the formalities required as a prerequisite to the right to vote to give
all citizens of the United States the same and equal opportunity to perform such prerequisites. Section 2006 prescribed a penalty for the violation of section 2006. Section 2007 provided that the officer of the intending voter to perform the required prerequisites should entitle him to vote in cases where he was prevented from performing such prerequisites by reason of the refusal or neglect of the officers charged with attending to such duties. Section 2008 prescribed a penalty for wrongfully refusing to receive a vote offered by a voter. Section 2009 prescribed a penalty for unlawfully bindering, etc., a person from voting. Section 2010 provided a remedy for persons deprived of an office by reason of the denial to any citizen of the right to vote on account of race, color, or previous condition of servitude. Section 2011 provided for the holding of a term of the circuit court at certain designated places for the purpose of safeguarding the purity of elections held for the purpose of choosing representatives in Congress, on petition by a designated number of citizens. Section 2012 provided for the appointment by the circuit court of supervisors of elections. Section 2013 provided for the keeping open of the circuit court when convened for the purposes provided in section 2011, and prescribed the powers of the judges thereof in vacation and in chambers. Section 2014 provided that district judges might perform the duties of circuit judges in certain cases. Section 2015 construed section 2014. Sections 2016-2020, inclusive, prescribed the powers and duties of the supervisors of elections. Section 2021 provided for the appointment of special deputy-marshal. Section 2022 prescribed the duties of marshals and their deputies under this title. Section 2023 provided for the examination of persons arrested for violations of this Title. Section 2024 authorized the marshals and deputies to require the assistance of bystanders in the execution of the duties imposed upon them by this Title. Section 2025 provided for the appointment of chief supervisors of elections. Section 2026 prescribed their duties. Section 2027 provided that marshals and commissioners should forward all complaints, etc., to the chief supervisors of elections. Section 2028 prescribed the qualifications of supervisors and deputy-marshals. Section 2029 regulated the powers of supervisors in making arrests. Section 2030 limited the number of marshals and deputy-marshals who might be appointed under this Title. Section 2031 prescribed the compensation of supervisors of elections and special deputy-marshal.

All said sections, with R. S. § 2002, being all the sections included in this Title of the Revised Statutes, except sections 2003 and 2004, were repealed by Act Feb. 6, 1894, c. 25, § 1, 28 Stat. 98; and section 2 of said act repealed all other statutes and parts of statutes relating in any way to supervisors of elections and special deputy-marshals.

Section 1 of said act also repealed R. S. §§ 5506, 5511-5515, 5520-5523, which defined and punished certain offenses against the elective franchise.

Offenses against the elective franchise and civil rights of citizens were defined and punished subsequently by Chapter 8 of the Criminal Code, including sections 19-26 thereof, post, §§ 10139-10140.

(1894)
TITLE XXVII.
THE FREEDMEN

Sec. 3967. Certain acts continued in force.
Sec. 3968. Such laws to be enforced by Secretary of War.
Sec. 3969. Payment of claims for pay, bounty, etc., to colored soldiers, etc.
Sec. 3970. Mode of payment of claims.
Sec. 3971. Allowance of attorney's fees on settlement of claims.
Sec. 3972. Repeal of R. S. § 2035; disposition of retained bounty fund.
Sec. 3973. Who to be deemed wife and children of colored soldiers.
Sec. 3974. Freedmen's Hospital in District of Columbia continued, etc.
Sec. 3975. Freedmen's Hospital under direction of Secretary of Interior.
Sec. 3976. Freedmen's Hospital; supervision of expenditures.
Sec. 3977. Freedmen's Hospital; contracts for care and treatment of persons from District of Columbia.
Sec. 3978. Freedmen's Hospital; estimates for expenses and maintenance.
Sec. 3979. Howard University; report of expenditures of appropriations.

§ 3967. (R. S. § 2032.) Certain acts continued in force.
All laws and parts of laws pertaining to the collection and payment of bounty, prize-money, and other legitimate claims of colored soldiers, sailors, and marines, or their heirs, shall remain in force until otherwise ordered by Congress.
Act June 10, 1872, c. 415, § 1, 17 Stat. 386.

§ 3968. (R. S. § 2033.) Such laws to be enforced by Secretary of War.
The Secretary of War is authorized to carry into effect all laws and parts of laws referred to in the preceding section, and to this end he may employ such clerical force as he deems necessary.
Act June 10, 1872, c. 415, § 1, 17 Stat. 386.

§ 3969. (Act March 3, 1879, c. 182, § 2.) Payment of claims for pay, bounty, etc., to colored soldiers, etc.
All sums due upon certificates issued, or which may be issued by the accounting officers of the Treasury in settlement of claims for pay, bounty, prize money, or other moneys due to colored soldiers, sailors or marines, or their legal representatives, shall be paid by the officers of the Pay Department of the Army, under the direction of the Paymaster General, who is already charged with the payment of like due to white soldiers: Provided, first, That no such certificate shall be issued until it shall have been ascertained that the application is made by the original claimant, or, if he be dead, by his true living legal representative, nor until the identity of such claimant or representative as the case may be, shall have been duly established: Provided, That if an agent or attorney be employed, the allowance for his services shall not in any case exceed that contemplated in the scale of fees and allowances fixed by the second section of a joint resolution approved July twenty sixth,
eighteen hundred and sixty-six, entitled "Joint resolution amendatory of a joint resolution respecting bounties to colored soldiers, and the pensions, bounties, and allowances to their heirs," approved June fifteenth, eighteen hundred and sixty-six, * *; and no power of attorney, transfer or assignment of the amount of such claims, or any part thereof, shall in any case be recognized. (20 Stat. 402.)

This section was part of the sundry civil appropriation act for the fiscal year 1880, cited above.

The portions omitted here consisted of a proviso that the allowance for services of an attorney or agent should be stated in a separate certificate in favor of the agent or attorney simultaneously with the issue of a certificate for the amount due the claimant, which was repealed by Act July 1, 1898, c. 546, § 1, post, § 3971, and a further proviso that amounts due upon certificates issued in settlement of claims for pay, bounty, etc., should be paid only to the party named in the certificate, and in current funds or by post-office money-order, and not by check or draft, which was repealed by Act Feb. 1, 1888, c. 4, § 1, 25 Stat. 9.

The fees allowed by Res. July 26, 1868, No. 86, § 2, 14 Stat. 368, referred to in this section, were "for the preparation and prosecution of claims for, and the collection and remittances of all sums not exceeding fifty dollars, five dollars; for sums exceeding fifty and less than one hundred dollars, seven dollars and fifty cents; and for all sums exceeding one hundred dollars, the sum of ten dollars."

§ 3970. (Act Feb. 1, 1888, c. 4, § 1.) Mode of payment of claims.

That so much of section two of the sundry civil appropriation act, approved March third, eighteen hundred and seventy-nine, as provides that amounts due upon certificates issued, or which may be issued, by the accounting officers of the Treasury, in settlement of claims for pay, bounty, prize-money, or other moneys due to colored soldiers, sailors, or marines, or their legal representatives, shall be paid only to the party named in the certificate, and in current funds or by post-office money-order, and not by check or drafts, be, and the same is hereby, repealed; and hereafter the said claims of colored soldiers, sailors, and marines shall be paid in the same manner as similar claims are paid to white soldiers, sailors, and marines. (25 Stat. 9.)

This was a provision of the deficiency appropriation act for the fiscal year 1887, cited above.

§ 3971. (Act July 1, 1898, c. 546, § 1.) Allowance of attorney's fees on settlement of claims.

That so much of the sundry civil appropriation Act of March third, eighteen hundred and seventy-nine, as requires in the settlement of claims for pay, bounty, prize money, or other moneys due to colored soldiers, sailors, or marines, or their legal representatives, that the amount allowed as attorney's fees be stated in a separate certificate in favor of the agent or attorney, be, and the same is hereby, repealed. (30 Stat. 640.)

This was a provision of the sundry civil appropriation act for the fiscal year 1899, cited above.

(R. S. § 2034. Obsolete.)

This section, as amended by Act Feb. 27, 1877, c. 69, provided that accounts for expenditures incurred for refugees or freedmen, under the sanction of the (1596)
proper officers, but which could not be settled for want of a specific appropriation, might be paid out of the fund for the relief of refugees and freedmen, on the approval of the Secretary of War. It may be regarded as having become obsolete, and is therefore omitted.

(R.S. § 2035. Repealed.)

This section made the Secretary of War the custodian of the retained bounty fund derived from a portion of the State bounties of certain colored soldiers enlisted in Virginia and North Carolina in 1864 and 1865, and required him to hold it as trustee for the benefit of such soldiers or their representatives, to whom it should be paid upon their application or discovery. It was repealed by a provision of Act July 1, 1902, c. 1351, post, § 3972.

§ 3972. (Act July 1, 1902, c. 1351.) Repeal of R. S. § 2035; disposition of retained bounty fund.

Retained bounty fund: Section two thousand and thirty-five of the Revised Statutes is hereby repealed, and the unexpended balance of the fund formerly in the custody of the Freedmen's Bureau and referred to in said section is hereby covered into the Treasury as "Miscellaneous receipts": Provided, That upon application by parties entitled to any portion of the money so covered in, the Secretary of the Treasury is authorized and directed to pay the amount found due in the same manner and from the same appropriation as claims for bounty to volunteer soldiers are now paid. (32 Stat. 556.)

This was a provision of the deficiency appropriation act for the fiscal year 1902, cited above.

R.S. § 2035, repealed by this provision, constituted the Secretary of War trustee of a retained bounty fund of certain colored soldiers.

(R.S. § 2036. Superseded.)

This section provided for the investment by the Secretary of War of the retained bounty fund referred to in R.S. § 2035. It was superseded by the repeal of that section and the transfer of the fund to the Treasury by Act July 1, 1902, c. 1351, ante, § 3972.

§ 3973. (R.S. § 2037.) Who to be deemed wife and children of colored soldiers.

In determining who is the wife or child of any colored soldier, within the meaning of this Title, evidence that the soldier and the woman claimed to be his wife cohabited or associated as husband and wife, and so continued to cohabit or associate at the time of enlistment, or evidence that a form of marriage, whether such marriage was authorized or recognized by law or not, was entered into by them, and that the parties thereafter lived together as husband and wife, and so continued to live together at the time of the enlistment, shall be deemed sufficient proof of marriage; and the children born of any such marriage shall be taken to be the children embraced within the provisions of this Title, whether such marriage was or was not dissolved at the time of the enlistment.


§ 3974. (R.S. § 2038.) Freedmen's Hospital in District of Columbia continued, etc.

The Freedmen's Hospital and Asylum in the District of Columbia is, until otherwise ordered by Congress, continued [under the control
and supervision of the Secretary of War, who shall make all estimates, pass all accounts, and be responsible to the Treasury for all expenditures; but no part of any appropriation shall be used in support of, or to pay the expenses on account of, any person hereafter to be admitted to such Hospital and Asylum, unless persons removed thither from some other Government hospital.


The portion of this section enclosed in brackets, which continued the Hospital under the control of the Secretary of War, etc., was superseded by provisions placing it under the direction of the Secretary of the Interior, etc., of Act June 23, 1874, c. 455, § 1, post, § 3975.

Subsequent provisions relating to the supervision of the expenditures for the Hospital, and the estimates for the expenses thereof, were made by Act March 3, 1893, c. 199, § 1, and Act March 3, 1906, c. 1483, § 1, post, §§ 3976-3978.

§ 3975. (Act June 23, 1874, c. 455, § 1.) Freedmen's Hospital under direction of Secretary of Interior.

After June thirtieth, eighteen hundred and seventy-four, the Freedmen's Hospital in the District of Columbia shall, until otherwise ordered by Congress, be continued under the direction of the Secretary of the Interior, who shall make all estimates and pass all accounts, and shall be accountable to the Treasury of the United States for all expenditures; and all property including hospital and quartermaster's stores, belonging to said hospital, and now in charge of the War Department, be also transferred to the Interior Department. (18 Stat. 223.)

This was a proviso annexed to an appropriation for the Freedmen's Hospital in the sundry civil appropriation act for the fiscal year 1875, cited above. This act superseded so much of R. S. § 2038, ante, § 3974, as placed the hospital under the control and supervision of the Secretary of War. Its provisions relating to estimates for the hospital were superseded by those of Act Aug. 5, 1892, c. 380, § 1, 27 Stat. 373, which required the estimates to be submitted as part of the annual expenses of the District of Columbia, and which were superseded by the provisions of Act March 3, 1906, c. 1483, § 1, post, § 3978. And the provisions of this act relating to the expenditures for the hospital were superseded by Act March 3, 1893, c. 199, § 1, post, § 3976.

§ 3976. (Act March 3, 1893, c. 199, § 1.) Freedmen's Hospital; supervision of expenditures.

Hereafter the expenditures for the Freedmen's Hospital and Asylum shall be under the supervision and control of the Commissioners of the District of Columbia. (27 Stat. 551.)

This was a provision of the District of Columbia appropriation act for the fiscal year 1894, cited above.

§ 3977. (Act March 3, 1905, c. 1483, § 1.) Freedmen's Hospital; contracts for care and treatment of persons from District of Columbia.

The Secretary of the Interior is authorized to enter into contract with the Board of Charities of the District of Columbia for the care and treatment of persons from the District of Columbia admitted to the Freedmen's Hospital; and any money that may be received, from this source, on and after July first, nineteen hundred (1598)
and five, shall be paid to the Secretary of the Interior, to be applied to the uses and purposes of the hospital. (33 Stat. 1190.)

This was a provision of the sundry civil appropriation act for the fiscal year 1906, cited above.

§ 3978. (Act March 3, 1905, c. 1483, § 1.) Freedmen's Hospital; estimates for expenses and maintenance.

Hereafter estimates for expenses and maintenance of the Freedmen's Hospital and Asylum shall be submitted by the Secretary of the Interior. (33 Stat. 1190.)

This was a further provision of the sundry civil appropriation act for the fiscal year 1906, cited above.

This provision superseded a previous requirement that such estimates be submitted in the annual estimates for the expenses of the government of the District of Columbia, of Act Aug. 5, 1892, c. 380, 27 Stat. 373.

Appropriations for the Freedmen's Hospital, for salaries and compensation of the surgeon in chief, and for all other professional and other services that may be required and expressly approved by the Secretary of the Interior, with a provision that a detailed statement of the expenditure shall be submitted to Congress, are made in the annual sundry civil appropriation acts. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 3, 38 Stat. 51.

§ 3979. (Act March 3, 1893, c. 208.) Howard University; report of expenditures of appropriations.

For the maintenance of the Howard University, to be used in payment of part of the salaries of the officers, professors, teachers, and other regular employees of the university, the balance of which will be paid from donations and other sources. * * * And the proper officers of said university shall report annually to the Secretary of the Interior how the appropriation is expended. (27 Stat. 595.)

These were provisions of the sundry civil appropriation act for the fiscal year 1894, cited above.

A similar requirement of a report of the expenditure accompanied the appropriation for the same purpose in the similar acts for the two preceding years, Act March 3, 1891, c. 542, 26 Stat. 973, and Act Aug. 5, 1892, c. 380, § 1, 27 Stat. 372.

Subsequent appropriations for the University are made in the sundry civil appropriation acts, the recent acts including (in addition to payment of part of the salaries of officers, etc.) "Ice and stationery." The provision for the fiscal year 1914, was by Act June 23, 1913, c. 8, 38 Stat. 50.

(1599)
TITLE XXVIII
INDIANS

CHAPTER ONE
Officers of Indian Affairs; Their Duties and Compensation

Sec. 3980. Board of Indian commissioners.
3981. Employment of secretary authorized; payment of salary.
3982. Commissioners' duties.
3983. Power to investigate contracts.
3984. Appointment of Indian inspectors; term of office.
3985. Indian inspectors; number.
3986. Indian inspectors; two to be engineers skilled in irrigation work.
3987. Indian inspectors; six to be termed inspectors, in office of Secretary of Interior, and included in classified service.
3988. Indian inspectors; salary and expenses.
3989. Inspectors; powers and duties.
3990. Repeal in part of requirement that agencies be visited by inspectors.
3991. Indian agents; appointment.
3992. Services of certain agents to be dispensed with.
3993. Duties of agent at Cherokee Agency, N. C., to be performed by superintendent of training school; office of agent abolished.
3994. Duties of Indian agency may be devolved on superintendent of Indian school; bond of superintendent; increase of pay.
3995. Indian agents; salary.
3996. Indian agents; repeal in part of provisions fixing compensation.

(1600)
Sec. 4011. Appointment of sub-Indian agents.

Sec. 4024. Allowances for expenses of clerks, etc., detailed on special duty.

Sec. 4012. Limits of superintendencies, agencies, and sub-agencies.

Sec. 4025. Allowance of heat and light for employees' quarters.

Sec. 4013. Special agents and commissioners; appointment.

Sec. 4026. Persons employed in Indian affairs not to trade with the Indians.

Sec. 4014. Interpreters to the agencies.

Sec. 4027. Special agents and other officers authorized to administer oaths.

Sec. 4015. Preference to Indians for interpreters.

Sec. 4028. Farmers and stockmen to be employed to superintend farming and stock raising; additional farmers at Indian schools.

Sec. 4016. When tribes may direct employment of blacksmiths, etc.

Sec. 4029. Matrons to be employed to teach housekeeping, etc.

Sec. 4017. Discontinuance of offices of agents, sub-agents, interpreters, etc.

Sec. 4030. Indians to be employed on reservations and about agencies.

Sec. 4018. No person to hold two offices; leave of absence.

Sec. 4031. Indians to be employed in connection with agencies and Indian service.

Sec. 4019. Additional security from persons charged with disbursement, etc., of money, goods, etc.

Sec. 4032. Limitation of expenditure for compensation of employees at agencies.

Sec. 4020. New bonds of disbursing officers.

Sec. 4033. Transfer of funds for payment of employees; detail of employees for other service.

Sec. 4021. Special bond of disbursing officer making large per capita payments to Indians.

§ 3980. (R. S. § 2039.) Board of Indian commissioners.

There shall be a board of Indian commissioners, composed of not more than ten persons, appointed by the President solely, from men eminent for intelligence and philanthropy, and who shall serve without pecuniary compensation.


(R. S. § 2040. Superseded.)

This section authorized the board of commissioners to appoint one of their own number as Secretary, and to designate his compensation, payable from any moneys appropriated for the expenses of the board. It was superseded by a provision for the employment of a Secretary, not a member of the board, of Act Aug. 24, 1912, c. 388, post, § 3981.

§ 3981. (Act Aug. 24, 1912, c. 388.) Employment of secretary authorized; payment of salary.

Hereafter the Board of Indian Commissioners is authorized to employ a secretary, not a member of said board, and pay his salary out of the appropriation herein made or which shall hereafter be made for said board. (37 Stat. 521.)

This was a provision of the Indian appropriation act for the fiscal year 1913, cited above.

Before this act, the board of commissioners was authorized to appoint one of their own number as Secretary, by R. S. § 2040.

(R. S. § 2041. Superseded.)

This section provided that the board of commissioners mentioned in R. S. § 2039, ante, § 3980, should supervise all expenditures of money appropriated for the benefit of Indians within the limits of the United States, and should inspect all goods purchased for Indians, in connection with the Com-
commissioner of Indian Affairs, whose duty it should be to consult the commission in making purchases of such goods. Subsequent provisions relating to the duties of said commissioners were made by Act June 22, 1874, c. 389, § 2, 18 Stat. 176. All these provisions were superseded by those of Act May 17, 1882, c. 168, post, § 3982.

§ 3982. (Act May 17, 1882, c. 163, § 1.) Commissioners’ duties.

Hereafter the commission shall only have power to visit and inspect agencies and other branches of the Indian service, and to inspect goods purchased for said service, and the Commissioner of Indian Affairs shall consult with the commission in the purchase of supplies. The commission shall report their doings to the Secretary of the Interior. (22 Stat. 70.)

This was a provision, accompanying an appropriation for expenses of the commission, in the Indian appropriation act for the fiscal year 1883, cited above.

This provision superseded R. S. § 2048, prescribing the duties of the commissioners, and authorizing them to supervise all expenditures of money appropriated for the benefit of Indians, as well as to inspect goods purchased, etc.

An inquiry into conditions in the Indian service, with a view to ascertaining any and all facts relating to the conduct and management of the Bureau of Indian Affairs, and of recommending such changes in the administration of Indian affairs as would promote the betterment of the service and the well-being of Indians, by commission to be known as the Joint Commission to Investigate Indian Affairs, to be composed of three Members of the Senate, and three Members of the House of Representatives, which was authorized to examine into the conduct and management of the Bureau of Indian Affairs and all its branches and agencies, their organization and administration, the findings, conclusions, and recommendations of such commission to be reported to Congress during the Sixty-third Congress, was provided for by Act June 80, 1913, c. 4, § 1, 38 Stat. 81.

§ 3983. (R. S. § 2042.) Power to investigate contracts.

Any member of the board of Indian commissioners is empowered to investigate all contracts, expenditures, and accounts in connection with the Indian service, and shall have access to all books and papers relating thereto in any Government office; but the examination of vouchers and accounts by the executive committee of said board shall not be a prerequisite of payment.

Act May 29, 1872, c. 233, § 1, 17 Stat. 186.

§ 3984. (R. S. § 2043.) Appointment of Indian inspectors; term of office.

There shall be appointed by the President, by and with the advice and consent of the Senate, a sufficient number of Indian inspectors, [not exceeding five in number,] to perform the duties required of such inspectors by the provisions of this Title. Each inspector shall hold his office for four years, unless sooner removed by the President.


The words of this section included in brackets, "not exceeding five in number," were superseded by the reduction of the number to three, by a provision of Act March 3, 1875, c. 132, post, § 3985.

Subsequent appropriations provided for greater numbers, increasing to eight inspectors, for the particular year. The provision for the fiscal year 1900, requiring that two of them should be engineers, Act March 3, 1900, c. 1470, § 1, is set forth post, § 3985.

Thereafter appropriations were made in the Indian appropriation acts for (1602)
eight inspectors until 1909, when the appropriation by Act March 3, 1909, c. 263, 35 Stat. 755, for the fiscal year 1910, was for the two, to be engineers, who were provided for by said Act March 3, 1905, c. 1479, § 1, post, § 3985. The six inspectors not required to be engineers were provided for in the office of the Secretary of the Interior, and were included in the classified service, by a provision of the legislative, executive, and judicial appropriation act for said fiscal year 1910, Act March 4, 1909, c. 297, § 1, post, § 3987. Appropriations for the six inspectors are continued in the similar subsequent acts. The provision for the fiscal year 1914 was by Act March 4, 1913, c. 142, § 1, 37 Stat. 772. The provision for the two inspectors to be skilled irrigation engineers for the fiscal year 1914, was by Act June 30, 1913, c. 4, § 1, 38 Stat. 73.

A provision authorizing the Secretary of the Interior to locate one Indian inspector in Indian Territory, who might, under his authority and direction, perform any duties required of said Secretary by law, relating to affairs therein, made by Act June 28, 1898, c. 517, § 27, 30 Stat. 504, was superseded by the admission of the Territory of Oklahoma and Indian Territory to the Union as the State of Oklahoma, pursuant to Act June 16, 1906, c. 3305, 34 Stat. 207.

§ 3985. (Act March 3, 1875, c. 132.) Indian inspectors; number. After the commencement of the next fiscal year there shall be but three inspectors. (18 Stat. 422.)

This was part of a proviso annexed to an appropriation for pay of three Indian inspectors in the Indian appropriation act for the fiscal year 1876, cited above.

See notes to R. S. § 2043, ante, § 3984.

§ 3986. (Act March 3, 1905, c. 1479, § 1.) Indian inspectors; two to be engineers skilled in irrigation work.

For pay of eight Indian inspectors, two of whom shall be engineers, one to be designated as chief, competent in the location, construction, and maintenance of irrigation works, at two thousand five hundred dollars per annum each, except the chief engineer, who shall receive three thousand five hundred dollars, * * Provided, that the requirement of two engineers skilled in irrigation shall become immediately operative. (33 Stat. 1049.)

These were provisions of the Indian appropriation act for the fiscal year 1906, cited above.

See notes to R. S. § 2043, ante, § 3984.

§ 3987. (Act March 4, 1909, c. 297, § 1.) Indian inspectors; six to be termed inspectors, in office of Secretary of Interior, and included in classified service.

Six Indian inspectors, not required to be engineers, now employed and appropriated for in the Indian Department, at two thousand five hundred dollars each, and said Indian inspectors shall hereafter be termed inspectors, and shall be included in the classified service. (35 Stat. 887.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1910, cited above.

See notes to R. S. § 2043, ante, § 3984.

§ 3988. (R. S. § 2044.) Indian inspectors; salary and expenses.

Each inspector shall receive an annual salary of three thousand dollars and his necessary traveling expenses, not exceeding ten cents a mile for actual travel while in the discharge of his duty, a
§ 3989. (R. S. § 2045.) Inspectors; powers and duties.

Each Indian [superintendency and] agency shall be visited and examined [as often as twice a year] by one or more of the inspectors. Such examination shall extend to a full investigation of all matters pertaining to the business of the [superintendency or] agency, including an examination of accounts, the manner of expending money, the number of Indians provided for, contracts of all kinds connected with the business, the condition of the Indians, their advancement in civilization, the extent of the reservations, and what use is made of the lands set apart for that purpose, and, generally, all matters pertaining to the Indian service. For the purpose of making such investigations, each inspector shall have power to examine all books, papers, and vouchers, to administer oaths, and to examine on oath all officers and persons employed in the [superintendency or] agency, and all such other persons as he may deem necessary or proper. The inspectors, or any of them, shall have power to suspend any [superintendent or] agent or employé, and to designate some person in his place temporarily, subject to the approval of the President, making immediate report of such suspension and designation; and upon the conclusion of each examination a report shall be forwarded to the President without delay. The inspectors, in the discharge of their duties, jointly and individually, shall have power, by proper legal proceedings, which it shall be the duty of the district attorney of the United States for the appropriate district duly to effectuate, to enforce the laws, and to prevent the violation of law in the administration of affairs in the several agencies [and superintendencies]. So far as practicable, the examinations of the agencies [and superintendencies] shall be made alternately by different inspectors, so that the same agency [or superintendency] may not be examined twice in succession by the same inspector or inspectors.

The words of this section inclosed in brackets, “superintendency and,” and other words making the provisions of the section applicable to superintendents and superintendencies, have become inoperative; no appropriation for any superintendent of Indian affairs having been made since the provisions of Act March 3, 1877, c. 101, § 1, 19 Stat. 271.
The further words of this section inclosed in brackets, “as often as twice a year,” were superseded by a repealing provision of Act March 3, 1875, c. 132, § 1, post, § 3990.

§ 3990. (Act March 3, 1875, c. 132, § 1.) Repeal in part of requirement that agencies be visited by inspectors.
The provision of law requiring that each agency shall be vis-
itted and examined by one or more of the inspectors at least twice in each year is hereby repealed. (18 Stat. 422.)

This was a proviso annexed to an appropriation for pay of Indian inspectors in the Indian appropriation act for the fiscal year 1876, cited above.

(R. S. §§ 2046–2051. Obsolete.)

These sections authorized the appointment of superintendents of Indian affairs, prescribed their numbers, salaries, term of office, and duties, and provided for the employment by them of temporary clerks. These provisions have become inoperative, no appropriation for any superintendent of Indian affairs having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271.

§ 3991. (R. S. § 2052.) Indian agents; appointment.

The President is authorized to appoint from time to time, by and with the advice and consent of the senate, [the following] Indian agents:

* * *


The words of this section inclosed in brackets, "the following," and the further provisions, omitted here, enumerating the agents authorized to be appointed for specified tribes, and fixing their salaries, were practically superseded by the appropriations for the then current fiscal year and subsequent years. which provided for such agents in numbers and at salaries different from those authorized by this section, varying from year to year, and the number diminishing greatly in the recent appropriation acts; the duties of the office, in many cases, having been devolved upon other offices, pursuant to a provision of Act March 1, 1907, c. 2285, post, § 3994.

§ 3992. (R. S. § 2053.) Services of certain agents to be dispensed with.

It shall be the duty of the President to dispense with the services of such Indian agents [and superintendents] as may be practicable; and where it is practicable he shall require the same person to perform the duties of two agencies [or, superintendencies] for one salary.


The words of this section inclosed in brackets, "and superintendents," "or superintendencies," have become inoperative. See note to R. S. § 2045, ante, § 3998.

§ 3993. (Act March 3, 1893, c. 209.) Duties of agent at Cherokee Agency, N. C., to be performed by superintendent of training school; office of agent abolished.

The superintendent of the Indian Training School at Cherokee, North Carolina, shall, in addition to his duties, as superintendent, perform the duties heretofore required of the agent at said Cherokee Agency, and receive in addition to his salary as superintendent two hundred dollars per annum, and shall give bond as other Indian agents, and that the office of agent be, and the same is hereby abolished at that place. (27 Stat. 614.)

This was a provision of the Indian appropriation act for the fiscal year 1894, cited.

A preceding provision of this act, authorizing the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, to devolve the duties of any Indian agency upon the superintendent of the Indian training school located at such agency, was repeated in subsequent similar acts, with further provisions added thereto from time to time, all of which were finally re-enacted in provisions of Act March 1, 1907, c. 2285, post, § 3994.

(1605)
§ 3994. (Act March 1, 1907, c. 2285.) Duties of Indian agency may be devolved on superintendent of Indian school; bond of superintendent; increase of pay.

The Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may devolve the duties of any Indian agency or part thereof upon the superintendent of the Indian school located at such agency or part thereof whenever in his judgment such superintendent can properly perform the duties of such agency. And the superintendent upon whom such duties devolve shall give bond as other Indian agents.

The pay of any superintendent who performs agency duties in addition to those of his superintendent may be increased by the Commissioner of Indian Affairs, in his discretion, to an extent not exceeding three hundred dollars per annum. (34 Stat. 1020.)

These were provisions of the Indian appropriation act for the fiscal year 1903, cited above.

Provisions more or less similar were made by previous Indian appropriation acts. See note to Act March 3, 1893, c. 209, ante, § 2903.

(R. S. § 2054. Obsolete.)

This section provided that, whenever one of the superintendencies should be abolished by law or discontinued by the President, the Indian agents therein should report directly to the Commissioner of Indian Affairs. It has become inoperative, no appropriation for any superintendent of Indian affairs having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271.

§ 3995. (R. S. § 2055, as amended, Act Feb. 27, 1877, c. 69, § 1.) Indian agents; salary.

Each Indian agent shall be entitled to receive a salary at the rate of fifteen hundred dollars a year except as herein otherwise provided for.


This section, as enacted in the Revised Statutes, did not contain the words at the end thereof, "except as herein otherwise provided for."

Subsequent appropriations for pay of Indian agents at specified rates for the agents at particular agencies named, accompanied by a provision repealing all provisions fixing compensation for them in excess of that therein provided, were made by Act July 4, 1884, c. 190, § 1, 23 Stat. 77, Act March 3, 1885, c. 341, § 1, 23 Stat. 362, and Act March 3, 1903, c. 209, post, § 3996. Similar specific appropriations were made thereafter in the annual Indian appropriation acts.

§ 3996. (Act March 3, 1893, c. 209.) Indian agents; repeal in part of provisions fixing compensation.

All provisions of law fixing compensation for Indian agents in excess of that herein provided are hereby repealed. (27 Stat. 614.)

This was a provision of the Indian appropriation act for the fiscal year 1894, following the provision thereof set forth ante, § 3903.

Similar previous provisions of Act July 4, 1884, c. 190, § 1, 23 Stat. 77, and Act March 3, 1885, c. 341, § 1, 23 Stat. 362, were superseded by this provision.

§ 3997. (Act March 1, 1907, c. 2285.) Indian agents; appropriations for salaries not available when duties are performed by active officer of Army.

The appropriations herein or hereafter made for the salaries of Indian agents shall not take effect nor become available in any
case for or during the time in which any active officer of the Army of the United States shall be engaged in the performance of the duties of Indian agent at any of the agencies hereafter named. (34 Stat. 1020.)

This was a provision of the Indian appropriation act for the fiscal year 1908, cited above.

Similar provisions, without the word “hereafter,” were made by previous Indian appropriation acts.

The “agencies hereafter named” in this act, included all the agencies for which appropriations were made for pay of agents.

§ 3998. (R. S. § 2056, as amended, Act May 17, 1882, c. 163, § 1.) Indian agents; term of office.

Each Indian agent shall hold his office for the term of four years, and until his successor is duly appointed and qualified. (22 Stat. 87.)


This section, as enacted in the Revised Statutes, did not contain the words at the end thereof “and until his successor is duly appointed and qualified.” That clause was added by amendment by Act May 17, 1882, c. 163, § 4, last cited above.

§ 3999. (R. S. § 2057.) Indian agents; bonds.

Each Indian agent, before entering upon the duties of his office, shall give bond in such penalties and with such security as the President or the Secretary of the Interior may require.

Act Feb. 27, 1851, c. 14, § 6, 9 Stat. 587.

Sureties on bonds required by this section were required to file statements as to their property, by a provision of Act March 30, 1875, c. 132, § 10, 18 Stat. 450, as follows:

“Hereafter the security or securities, upon the bond required by the act of February twenty-seventh, eighteen hundred and fifty-one, to be given by each Indian agent before entering upon the duties of his office, shall file a sworn statement with the Secretary of the Interior, setting forth the nature and kind of property owned by such security or securities, the value of the same, and where situated; and that no money appropriated by this act shall be paid to any Indian agent hereafter appointed until the security or securities shall have filed such statement.”

But said section 10 of Act March 30, 1875, c. 132, which also contained further provisions requiring the keeping of books, etc., by Indian agents, was amended by Act March 30, 1906, c. 263, 35 Stat. 784, to read as therein set forth, the section as so amended omitting the provisions quoted above, and changing said further provisions to read as set forth post, § 4001.

Provisions for acceptance of surety companies as sureties on bonds required by laws of the United States were made by Act Aug. 13, 1894, c. 282, ante, §§ 2293–2296.

The expense of procuring the official bond of any agent, etc., of the Indian service was to be paid by the United States, by a provision of Act April 30, 1908, c. 153, § 1, 35 Stat. 75. But this provision was superseded by a general provision that the United States should not pay any part of the premium on or other cost of furnishing a bond required of any officer, etc., made by Act Aug. 5, 1909, c. 7, ante, § 2301.

The President was authorized to require additional security from all persons charged or trusted with disbursement or application of money, goods, etc., on account of Indian affairs by R. S. § 2085, post, § 4045.

§ 4000. (R. S. § 2058.) Indian agents; duties.

Each Indian agent shall, within his agency, manage and superintend the intercourse with the Indians, agreeably to law; and
execute and perform such regulations and duties, not inconsistent with law, as may be prescribed by the President, the Secretary of the Interior, the Commissioner of Indian Affairs, [or the superintendent of Indian affairs.]


The words of this section enclosed in brackets, "or the superintendent of Indian affairs," have become inoperative; no appropriation for any superintendent of Indian affairs having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271.

§ 4001. (Act March 3, 1875, c. 132, § 10, as amended, Act March 3, 1909, c. 263.) Indian agents to keep books of expenditures, etc.; reports of material not required; making false entry, etc., a misdemeanor; punishment thereof.

Each Indian agent shall keep a book of itemized expenditures of every kind, with a record of all contracts, together with the receipts of moneys from all sources, and the books thus kept shall always be open to inspection; and the said books shall remain in the office at the respective reservations, not to be removed from said reservation by said agent, but shall be safely kept and handed over to his successor and he shall report annually to the Commissioner of Indian Affairs all material on hand and not required for his use: Provided, That should any agent knowingly make any false entry in said books, or shall knowingly fail to keep a perfect entry in said books as herein prescribed, he shall be deemed guilty of a misdemeanor and, on conviction before any United States court having jurisdiction of such offense, shall be fined in a sum not less than five hundred nor more than one thousand dollars, at the discretion of the court, and shall be rendered incompetent to hold said office of Indian agent after conviction under said Act. (18 Stat. 450. 35 Stat. 784.)

This section was part of the Indian appropriation act for the fiscal year 1876, cited above.

The section, as originally enacted, contained provisions that the security or securities upon the bond required, by Act Feb. 27, 1851, c. 14, § 6, incorporated into R. S. § 2057, to be given by each Indian agent before entering upon the duties of his office, should be a sworn statement with the Secretary of the Interior, setting forth the nature and kind of property owned by said security or securities, the value of the same, and the office where situated, and that no money appropriated by the act should be paid to any Indian agent thereafter appointed until the security or securities should have filed such statement. These provisions were entirely omitted from the section as amended by Act March 3, 1906, c. 263, last cited above.

The remainder of the section, as originally enacted, contained, after the words "shall be safely kept and handed over to his successor," a provision, "and true transcripts of all entries of every character in said books shall be forwarded quarterly by each agent to the commissioner of Indian Affairs," and, after the words of the proviso, "should any agent knowingly make any false entry in said books," the further clause "or in the transcripts directed to be forwarded to the Commissioner of Indian Affairs." Both said clauses, relating to transcripts of entries in the books, were omitted, and in place of the first of them was inserted a provision, "and he shall report annually to the Commissioner of Indian Affairs all material on hand and not required for his use," making the section read as set forth here, by said amendment by Act March 3, 1908, c. 263, last cited above.

(1608)
§ 4002. (Act July 1, 1898, c. 545, § 1.) Indian agents to account for all funds; liability under bonds. Hereafter Indian agents shall account for all funds coming into their hands as custodians from any source whatever, and be responsible therefor under their official bonds. (30 Stat. 595.)

This was a provision of the Indian appropriation act for the fiscal year 1899, cited above.

§ 4003. (R. S. § 2059.) Discontinuance and transfer of agencies. The President shall, whenever he may judge it expedient, discontinue any Indian agency, or transfer the same, from the place or tribe designated by law, to such other place or tribe as the public service may require.

Act June 30, 1834, c. 162, § 4, 4 Stat. 735.

§ 4004. (Act May 17, 1882, c. 163, § 6.) Consolidation of agencies.

The President may, in his discretion, consolidate two or more agencies into one, and where Indians are located on reservations created by executive order he may, with the consent of the tribes to be affected thereby, expressed in the usual manner, consolidate one or more tribes, and abolish such agencies as are thereby rendered unnecessary. (22 Stat. 88.)

This section was part of the Indian appropriation act for the fiscal year 1884, cited above.

A further provision of this section, for giving preference to Indians in employment on reservations and about agencies, is set forth post, § 4031.

§ 4005. (R. S. § 2060.) Residence of Indian agents.

Every Indian agent shall reside and keep his agency within or near the territory of the tribe for which he may be agent, and at such place as the President may designate, and shall not depart from the limits of his agency without permission.

Act June 30, 1834, c. 162, § 4, 4 Stat. 735.

§ 4006. (R. S. § 2061.) Limitation on visits to Washington by agents for Indians in California.

All Indian agents appointed for California shall reside at their respective agencies, and shall in no case be permitted to visit the city of Washington except when ordered to do so by the Commissioner of Indian Affairs. The Commissioner shall report all cases of the violation of this section to the President, with the request that the agents offending be at once removed from office.

Act April 8, 1864, c. 48, § 7, 13 Stat. 41.

(R. S. § 2062. Superseded.)

This section provided that the President might require any military officer to execute the duties of an Indian agent, such duties, when required, to be performed without other compensation than actual traveling expenses. It was superseded by subsequent provisions for the detail of officers of the Army to act as Indian agents, of Act July 13, 1892, c. 164, § 1, 27 Stat. 120, and Act July 1, 1898, c. 545, § 1, post, § 4007.

§ 4007. (Act July 1, 1898, c. 545, § 1.) Detail of officers of Army to act as Indian agents.

Hereafter the President may detail officers of the United States
Army to act as Indian agents at such agencies as in the opinion of the President may require the presence of an army officer, and while acting as Indian agents such officers shall be under the orders and direction of the Secretary of the Interior. (30 Stat. 573.)

This was a proviso annexed to appropriations for pay of Indian agents at specified agencies, in the Indian appropriation act for the fiscal year 1889, cited above.

This provision superseded a somewhat similar proviso of Act July 13, 1892, c. 164, § 1, 27 Stat. 120, and R. S. § 2062, authorizing the President to require any military officer to execute the duties of an Indian agent.

§ 4008. (R. S. § 2063.) No compensation for extra services performed by agents and sub-agents.

No compensation beyond their actual expenses for extra services shall be allowed any Indian agent or sub-agent for services when doing duty under the order of the Government, detached from their agency and the boundary of the tribe to which they are agents or sub-agents.

Act May 31, 1882, c. 109, § 2, 4 Stat. 520.

§ 4009. (R. S. § 2064.) Indian agents authorized to take acknowledgments of deeds, etc., and administer oaths in investigations.

Indian agents are authorized to take acknowledgments of deeds, and other instruments of writing, and to administer oaths in investigations committed to them in Indian country, pursuant to such rules and regulations as may be prescribed for that purpose, by the Secretary of the Interior; and acknowledgments so taken shall have the same effect as if taken before a justice of the peace.

Act March 8, 1855, c. 204, § 10, 10 Stat. 701.

§ 4010. (Act June 30, 1913, c. 4, § 1.) Superintendents, etc., in charge of reservations, schools, etc., authorized to administer oath of office to employés.

Superintendents and acting superintendents in charge of Indian reservations, schools, irrigation and allotment projects are hereby authorized and empowered to administer the oath of office required of employees placed under their jurisdiction. (38 Stat. 80.)

This was a provision of the Indian appropriation act for the fiscal year 1914, cited above.

The application of this provision to superintendents of Indian affairs has become inoperative, no appropriation for any such superintendent having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271.

§ 4011. (R. S. § 2065.) Appointment of sub-Indian agents.

A competent number of sub-Indian agents shall be appointed by the President, with a salary of one thousand dollars a year each, to be employed, and to reside wherever the President may direct, and who shall give bonds, with one or more sureties, in the penal sum of one thousand dollars, for the faithful execution of their duties. But no sub-agent shall be appointed who shall reside within the limits of any agency where there is an agent appointed.

Act June 30, 1834, c. 162, § 5, 4 Stat. 738.

(1610)
§ 4012. (R. S. § 2065.) Limits of superintendencies, agencies, and
sub-agencies.

The limits of each [superintendency,] agency, and sub-agency
shall be established by the Secretary of the Interior, either by
tribes or geographical boundaries.

Act June 30, 1834, c. 162, § 7, 4 Stat. 736. Act March 3, 1847, c. 66, §
1, 9 Stat. 203.

The word "superintendency," enclosed in brackets in this section, has be-
come inoperative; no appropriation for any superintendent of Indian affairs
having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271.

§ 4013. (R. S. § 2067.) Special agents and commissioners; ap-
pointment.

All special agents and commissioners not appointed by the Pres-
ident shall be appointed by the Secretary of the Interior.

Act March 3, 1863, c. 99, § 1, 12 Stat. 792.

§ 4014. (R. S. § 2068.) Interpreters to the agencies.

An interpreter shall be allowed to each agency. Where there
are different tribes in the same agency, speaking different lan-
guages, one interpreter may be allowed, at the discretion of the
Secretary of the Interior, for each of such tribes. Interpreters
shall be nominated, by the proper agents, to the Department of
the Interior for approval, and may be suspended by the agent from
pay and duty, and the circumstances reported to the Department of
the Interior for final action.

Act June 30, 1834, c. 162, § 9, 4 Stat. 737.

§ 4015. (R. S. § 2069.) Preference to Indians for interpreters.

In all cases of the appointments of interpreters or other per-
sons employed for the benefit of the Indians, a preference shall
be given to persons of Indian descent, if such can be found, who
are properly qualified for the execution of the duties.

Act June 30, 1834, c. 162, § 9, 4 Stat. 737.

Preference to Indians in employment on reservations and about agencies
was provided for by Act May 17, 1882, c. 163, § 6, post, § 4081.

(R. S. § 2070. Repealed.)

This section fixed the salaries of interpreters employed in Oregon, Utah, and
New Mexico at $500 a year each, and of all employed elsewhere $400 a year
each. It was repealed by Act May 17, 1882, c. 163, § 1, 22 Stat. 70.

(R. S. § 2071. Transferred to Chapter 4 A.)

This section authorized the President to employ capable persons to in-
struct Indians in agriculture, and for teaching their children, etc. It is placed
under Chapter 4 A of this Title, "Education," § 4161.

§ 4016. (R. S. § 2072.) When tribes may direct the employment
of blacksmiths, etc.

Where any of the tribes are, in the opinion of the Secretary of the Interior,
competent to direct the employment of their black-
smiths, mechanics, teachers, farmers, or other persons engaged for
them, the direction of such persons may be given to the proper
authority of the tribe.

Act June 30, 1834, c. 162, § 9, 4 Stat. 737.

(1611)
§ 4017. (R. S. §§ 2073, as amended, Act Feb. 27, 1877, c. 69, § 1.)
Discontinuance of offices of agents, sub-agents, interpreters, etc.
The Secretary of the Interior shall, under the direction of the President, cause to be discontinued the services of such agents, sub-agents, interpreters, and mechanics, as may from time to time become unnecessary, in consequence of the Emigration of the Indians, or other causes.
Act July 9, 1832, c. 174, § 5, 4 Stat. 564. Act Feb. 27, 1877, c. 69, § 1, 19 Stat. 244.
This section, as enacted in the Revised Statutes, did not contain the word "agents," and had, after the words "in consequence of the," the word "immigration." The word "agents" was inserted, and "immigration" was changed to "emigration," by amendment by Act Feb. 27, 1877, c. 69, § 1, last cited above.

§ 4018. (R. S. § 2074.) No person to hold two offices; leave of absence.
No person shall hold more than one office at the same time under this Title, nor shall any agent, sub-agent, interpreter, or person employed under this Title, receive his salary while absent from his agency or employment, without leave of [the superintendent, or] Secretary of the Interior; but such absence shall at no time exceed sixty days.
Act June 30, 1834, c. 162, § 10, 4 Stat. 737.
The words "the superintendent, or," enclosed in brackets in this section, have become inoperative; no appropriation for any superintendent of Indian affairs having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271.

§ 4019. (R. S. § 2075.) Additional security from persons charged with disbursement, etc., of money, goods, etc.
The President may, from time to time, require additional security, and in larger amounts, from all persons charged or trusted, under the laws of the United States, with the disbursement or application of money, goods, or effects of any kind, on account of Indian affairs.
Act June 30, 1834, c. 162, § 8, 4 Stat. 737.

§ 4020. (Act April 30, 1908, c. 153.) New bonds of disbursing officers.
Hereafter when the Secretary of the Interior deems a new bond necessary he may, in his discretion, require any disbursing officer under the jurisdiction of the Commissioner of Indian Affairs to execute a new bond, with approved sureties, in such amount as he may deem necessary, and when accepted and approved by the Secretary of the Interior the new bond shall be valid and the surety or sureties of the prior bond shall be released from liability for all acts or defaults of the principal which may be done or committed from and after the day on which the new bond was approved. (35 Stat. 71.)
This was a provision of the Indian appropriation act for the fiscal year 1909, cited above.

§ 4021. (Act April 21, 1904, c. 1402, § 1.) Special bond of disbursing officer making large per capita payments to Indians.
Hereafter when it becomes necessary to make large per capita (1612)
payments to Indians, the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, is hereby authorized to require any disbursing officer of the Indian Department to file a special bond in such amount as may be necessary to make such payment in one installment, the expenses incurred in procuring such special bond to be paid by the United States from this appropriation. (33 Stat. 191.)

This was a proviso annexed to an appropriation for contingencies of the Indian service, including traveling and incidental expenses of Indian agents and of their offices, etc., in the Indian appropriation act for the fiscal year 1906, cited above.

A subsequent general provision that the United States should not pay any part of the premium or other cost of furnishing a bond required of any officer, etc., was made by Act Aug. 5, 1909, c. 7, ante, § 3301.

§ 4022. (R. S. § 2076.) Compensation prescribed to be in full. The several compensations prescribed by this Title shall be in full of all emoluments or allowances whatsoever. But where necessary, a reasonable allowance or provision may be made for offices and office contingencies.

Act June 30, 1894, c. 162, § 10, 4 Stat. 787.

§ 4023. (R. S. § 2077.) Allowance for traveling expenses. Where persons are required, in the performance of their duties, under this Title, to travel from one place to another, their actual expenses, or a reasonable sum in lieu thereof, may be allowed them, except that no allowance shall be made to any person for travel or expenses in coming to the seat of Government to settle his accounts, unless thereto required by the Secretary of the Interior.

Act June 30, 1834, c. 162, § 10, 4 Stat. 737.

Appropriations for traveling and incidental expenses of special agents and others, in accordance with the provisions of this section, are made in the annual Indian appropriation acts. The provision for the fiscal year 1894 was by Act June 30, 1913, c. 4, § 1, 38 Stat. 80.

§ 4024. (Act May 17, 1882, c. 163, § 1.) Allowances for expenses of clerks, etc., detailed on special duty. When it becomes necessary to detail clerks and other employees of the Indian service outside of Washington to assist in the opening of bids, making contracts, and shipping goods, they may be allowed a per diem of not exceeding four dollars per day for hotel and other expenses, which per diem shall be in lieu of all expenses now authorized by law, exclusive of railway transportation and sleeping car fare. (22 Stat. 86.)

This was a provision of the Indian appropriation act for the fiscal year 1883, cited above.

§ 4025. (Act June 30, 1913, c. 4, § 1.) Allowance of heat and light for employés' quarters. The Commissioner of Indian Affairs is hereby authorized to allow employees in the Indian service who are furnished quarters, necessary heat and light for such quarters without charge, such heat and light to be paid for out of the fund chargeable with the cost of heating and lighting other buildings at the same place: Provided further, That the amount so expended for agency purposes

(1613)
§ 4025

shall not be included in the maximum amounts for compensation of employees prescribed by section one, Act of August twenty-fourth, nineteen hundred and twelve. (38 Stat. 79.)

These were provisions of the Indian appropriation act for the fiscal year 1914, cited above.

The provision as to maximum amounts for compensation of employees of Act Aug. 24, 1912, c. 388, § 1, mentioned in this provision, increased the amounts previously limited by Act June 7, 1897, c. 8, § 1, by amendment of the provision of that act, and is incorporated in said provision as set forth post, § 4032.

§ 4026. (R. S. § 2078.) Persons employed in Indian affairs not to trade with the Indians.

No person employed in Indian affairs shall have any interest or concern in any trade with the Indians, except for, and on account of, the United States; and any person offending herein, shall be liable to a penalty of five thousand dollars, and shall be removed from his office.

Act June 30, 1834, c. 162, § 14, 4 Stat. 738.

§ 4027. (Act March 1, 1899, c. 324, § 1.) Special agents and other officers authorized to administer oaths.

Hereafter each special agent, supervisor of schools, or other official charged with the investigation of Indian agencies and schools, in the pursuit of his official duties shall have power to administer oaths and to examine on oath all officers and persons employed in the Indian service, and all such other persons as may be deemed necessary and proper. (30 Stat. 927.)

This was a proviso annexed to appropriations for the Indian service in the Indian appropriation act for the fiscal year 1900, cited above.

§ 4028. (Act April 30, 1908, c. 153.) Farmers and stockmen to be employed to superintend farming and stock raising; additional farmers at Indian schools.

To enable the Commissioner of Indian Affairs to employ practical farmers and practical stockmen, subject only to such examination as to qualifications as the Secretary of the Interior may prescribe, in addition to the agency farmers now employed, at wages not exceeding seventy-five dollars each per month, to superintend and direct farming and stock raising among such Indians as are making effort for self-support, one hundred and twenty-five thousand dollars: Provided, That the amounts paid such farmers and stockmen shall not come within the limit for employees fixed by the Act of June seventh, eighteen hundred and ninety-seven: Provided further, That the Commissioner of Indian Affairs may employ additional farmers at any Indian school at not exceeding sixty dollars per month, subject only to such examination as to qualifications as the Secretary of the Interior may prescribe, said farmers to be in addition to the school farmers now employed. (35 Stat. 75.)

These were provisions of the Indian appropriation act for the fiscal year 1908, cited above.

Provisions, similar to some extent to those of this act, were made by Act (1614)
March 1, 1899, c. 394, § 1, 30 Stat. 927, and other Indian appropriation acts thereafter, preceding this act.

The provision of Act June 7, 1897, c. 3, § 1, mentioned in this act limiting the amounts to be paid to employees at agencies was amended by Act Aug. 24, 1912, c. 388, and as so amended is set forth post, § 4032.

Subsequent appropriations, to conduct experiments on Indian school or agency farms designed to test the possibilities of soil and climate in the cultivation of trees, grains, vegetables, and fruits, for the purposes of preserving living and growing timber on Indian reservations and allotments, and to advise the Indians as to the proper care of forests, for the employment of suitable persons as matrons to teach Indian women housekeeping and other household duties, and for furnishing necessary equipments and supplies and renting quarters for them where necessary; for the employment of practical farmers and stockmen, in addition to the agency and school farmers now employed, and to superintend and direct farming and stock raising among Indians, accompanied by a proviso similar to the first proviso in this act, as to the limitation of the amount to be paid to matrons, farmers, and stockmen, therein provided for, are made by the Indian appropriation acts for each year. The provisions for the fiscal year 1914 were by Act June 30, 1913, c. 4, § 1, 38 Stat. 79.

§ 4029. (Act March 1, 1907, c. 2285.) Matrons to be employed to teach housekeeping, etc.

To enable the Secretary of the Interior to employ suitable persons as matrons to teach Indian girls in housekeeping and other household duties, at a rate not to exceed sixty dollars per month, and for furnishing necessary equipments, and renting quarters where necessary, twenty-five thousand dollars: Provided, That the amount paid said matrons shall not come within the limit for employees fixed by the Act of June seventh, eighteen hundred and ninety-seven. (34 Stat. 1019.)

This was a provision of the Indian appropriation act for the fiscal year 1908, cited above.

A previous provision similar to this was made by Act March 3, 1905, c. 1479, § 1, 33 Stat. 1050. And a former provision, similar to some extent, was made by Act May 27, 1902, c. 888, § 1, 32 Stat. 248.

The provision of Act June 7, 1897, c. 3, § 1, mentioned in this act, limiting the amounts to be paid to employees at agencies, was amended by Act Aug. 24, 1912, c. 388, and, as so amended, is set forth post, § 4032.

Subsequent appropriations for employment of matrons, and for furnishing necessary equipments and supplies and renting quarters for them are made by the Indian appropriation acts for each year. The provisions for the fiscal year 1914 were by Act June 30, 1913, c. 3, § 1, 38 Stat. 79.

See notes to provisions of Act April 30, 1908, c. 153, ante, § 4028.

§ 4030. (Act May 17, 1882, c. 163, § 6.) Indians to be employed on reservations and about agencies.

Preference shall at all times, as far as practicable, be given to Indians in the employment of clerical, mechanical, and other help on reservations and about agencies. (22 Stat. 88.)

This provision was part of section 6 of the Indian appropriation act for the fiscal year 1883, cited above.

The preceding provision of the section, authorizing the President to consolidate agencies and tribes, and to abolish agencies thereby rendered unnecessary, is set forth ante, § 4004.

Subsequent provisions for employment of Indians in connection with agencies and the Indian service, of Act Aug. 15, 1894, c. 290, § 16, are set forth post, § 4031.

(1615)
§ 4031. (Act Aug. 15, 1894, c. 290, § 10.) Indians to be employed in connection with agencies and Indian service.

In the Indian service Indians shall be employed as herdsmen, teamsters, and laborers, and where practicable in all other employments in connection with the agencies and the Indian service. And it shall be the duty of the Secretary of the Interior and the Commissioner of Indian Affairs to enforce this provision. (28 Stat. 312.)

This section was part of the Indian appropriation act for the fiscal year 1896, cited above.

A subsequent provision, in connection with the purchase of supplies for the Indian service, that as far as practicable Indian labor should be employed, and purchase in the open market made from Indians, was made by Act April 30, 1908, c. 183, post, § 4040.

§ 4032. (Act June 7, 1897, c. 3, § 1, as amended, Act Aug. 24, 1912, c. 388.) Limitation of expenditure for compensation of employed at agencies.

Hereafter not more than fifteen thousand dollars shall be paid in any one year for salaries or compensation of employees regularly employed at any one agency, for its conduct and management, and the number and kind of employees at each agency shall be prescribed by the Secretary of the Interior and none other shall be employed: Provided, That where two or more Indian agencies have been or may hereafter be consolidated, the expenditure of such consolidated agencies for regular employees shall not exceed twenty thousand dollars: Provided further, That salaries or compensation of agents, Indians, school employees of every description, and persons temporarily employed, in case of emergency, to prevent loss of life and property, in the erection of buildings, the work of irrigation, and making other permanent improvements, shall not be construed as coming within the limitations fixed by the foregoing paragraphs. (30 Stat. 50. 37 Stat. 521.)

This was a provision of the Indian appropriation act for the fiscal year 1898, cited above.

This provision, as originally enacted, limited the amount to be paid for salaries or compensation to employees regularly employed, at any one agency to $10,000, and at a consolidated agency to $15,000. It was amended, by increasing said amounts to $15,000 and $20,000, respectively, by Act Aug. 24, 1912, c. 388, last cited above.

A previous provision limiting the aggregate amount to be paid in any one year for salaries or compensation of employees at any one agency, was made by Act March 3, 1875, c. 132, § 5, 18 Stat. 449. But teachers and Indians employed at agencies in any capacity were not to be construed as part of the agency employees named in that section, by a provision of Act May 11, 1890, c. 65, § 1, 21 Stat. 151.

§ 4033. (Act March 1, 1907, c. 2285.) Transfer of funds for payment of employees; detail of employés for other service.

Hereafter when not required for the purpose for which appropriated, the funds provided for the pay of specified employees at any Indian agency may be used by the Secretary of the Interior for the pay of other employees at such agency, but no deficiency shall be thereby created; and, when necessary, specified employees (1616)
may be detailed for other service when not required for the duty for which they were engaged. (34 Stat. 1016.)

This was a provision of the Indian appropriation act for the fiscal year 1898, cited above.

Previous similar provisions, without the word "hereafter," were made by the Indian appropriation acts for previous years.

---

CHAPTER TWO

Performance of Engagements between the United States and Indians

Sec. 4034. No future treaties with Indian tribes.

4035. Abrogation of treaties.

4036. Payment of certain annuities in coin.

4037. Payment of annuities in goods.

4038. Purchase of goods for the Indians.

4039. Manner of purchase of goods; written requisition; public bids.

4040. Purchase of supplies; advertisement, when required; supplies for irrigation works; employment of and purchases from Indians.

4041. Purchase of articles manufactured at Indian schools.

4042. Bids under advertisements for goods, supplies, transportation, etc., exceeding $5,000, to be accompanied by certified check; forfeiture on failure to execute contract, if awarded.

4043. Copies of contracts to be furnished to Auditor before payment thereon.

4044. Proposals or bids for contracts to be preserved; abstract of bids, etc., to be filed with contract in Treasury Department.

4045. Purchase of supplies without authority of law.

4046. Contracts for supplies in advance of appropriations.

4047. Appropriations for supplies available immediately; time for distribution.

4048. Transportation of supplies by wagon; performance by Indian labor; advertisement for bids.

4049. Transportation of supplies under contract or by common carriers.

4050. Warehouses for goods at certain places.

Sec. 4051. Transportation of supplies of land-grant railroads; basis and rate of compensation.

4052. Payment for wagon transportation of supplies from point of delivery by common carrier, etc.

4053. Modes of paying annuities and distributing goods.

4054. Payments per capita to individual Indians.

4055. Payments from appropriations in satisfaction of judgments.

4056. Withholding of annuities on account of intoxicating liquors.

4057. Persons to be present at delivery of supplies.

4058. Mode of disbursements.

4059. Indians 18 years of age to have the right to receipt for annuity money.

4060. Mode of distribution of goods.

4061. Commutation of rations, etc., and other supplies; payment per capita.

4062. Supplies to be distributed to able-bodied male Indians on condition of performance of services equal in value; exceptions authorized.

4063. Rolls of Indians entitled to supplies to be made at commencement of fiscal year; times for giving out supplies.

4064. Supplies to be so distributed as to prevent deficiencies; no expenditure beyond appropriations.

4065. Appropriations for subsistence; use of surplus to supply deficiency; purchase of stock cattle; report to congress of diversions, etc.; appropriations to fulfill treaty obligations not to be used.

(1617)
§ 4034. INDIANS

Sec. 4066. Appropriations for employees and supplies; division to other uses; report to Congress thereof.
4067. Restriction on advances to agents or other disbursing officers.
4068. Deposit in bank of moneys in hands of disbursing agents; bond of bank.
4069. Disposal of proceeds of sales of Indian lands.
4070. Appropriation of moneys to carry out Indian treaties.
4071. Proceeds of sales of Indian lands not subject to deductions for expenses of public land service.
4072. Disposal of proceeds of pasturage and sales of timber, coal or other products of reservations.
4073. Investments of stock required by treaty.
4074. Investment of proceeds of lands.
4075. Custody of stocks, bonds, etc., held in trust for Indian tribes.
4076. Deposit in Treasury, in lieu of investment, of Indian trust funds.
4077. Contracts with Indians relating to tribal funds or property in hands of United States not valid without consent of United States.
4078. Allotment of tribal funds to individual Indians.
4079. Payment of share of tribal to helpless, etc., Indians.
4080. Statements of accounts between United States and Indian tribes under reimbursable appropriations, and payment of balances.

Sec. 4061. Misapplication of funds belonging to the Indians prohibited.
4062. Indian depredations, how paid.
4063. Annuities of Indians hostile to United States not to be paid or delivered.
4064. Appropriations not to be paid to Indians at war with United States.
4065. Goods withheld from chiefs who have violated treaty stipulations.
4066. Moneys due Indians holding captives other than Indians to be withheld.
4067. Contracts with Indian tribes or Indians.
4068. Payments under contracts restricted.
4069. Receiving moneys under prohibited contracts punishable; prosecution therefor; Indian agents or employees of United States aiding in making prohibited contracts or payments to be dismissed from the service.
4070. Assignments of contracts restricted.
4071. False vouchers, accounts, or claims presented by officers or other persons; effect to prevent payment or credit.
4072. Moneys due incompetent or orphan Indians.
4073. Number of Indians present and receiving food, etc., to be reported.
4074. Rations for Indians.

§ 4034. (R. S. § 2079.) No future treaties with Indian tribes.

No Indian nation or tribe within the territory of the United States shall be acknowledged or recognized as an independent nation, tribe, or power with whom the United States may contract by treaty; but no obligation of any treaty lawfully made and ratified with any such Indian nation or tribe prior to March third, eighteen hundred and seventy-one, shall be hereby invalidated or impaired.

Act March 3, 1871, c. 120, § 1, 16 Stat. 596.

§ 4035. (R. S. § 2080.) Abrogation of treaties.

Whenever the tribal organization of any Indian tribe is in actual hostility to the United States, the President is authorized, by proclamation, to declare all treaties with such tribe abrogated by such tribe if in his opinion the same can be done consistently with good faith and legal and national obligations.

Act July 5, 1892, c. 125, § 1, 12 Stat. 528.

(1618)
§ 4036. (R. S. § 2081.) Payment of certain annuities in coin.
The Secretary of the Treasury is authorized to pay in coin such of the annuities as by the terms of any treaty of the United States with any Indian tribe are required to be paid in coin.

§ 4037. (R. S. § 2082.) Payment of annuities in goods.
The President may, at the request of any Indian tribe, to which an annuity is payable in money, cause the same to be paid in goods, purchased as provided in the next section.
Act June 30, 1884, c. 162, § 12, 4 Stat. 737.

§ 4038. (R. S. § 2083.) Purchase of goods for the Indians.
All merchandise required by any Indian treaty for the Indians, payable after making of such treaty, shall be purchased under the direction of the Secretary of the Interior, upon proposals to be received, to be based on notices previously to be given; and all merchandise required at the making of any Indian treaty shall be purchased under the order of the Commissioner of Indian Affairs by such person as he shall appoint. All other purchases on account of the Indians, and all payments to them of money or goods, shall be made by such person as the President shall designate for that purpose.
Act June 30, 1884, c. 162, § 13, 4 Stat. 737.

§ 4039. (R. S. § 2084.) Manner of purchase of goods; written requisition; public bids.
No goods shall be purchased by the Office of Indian Affairs, or its agents, for any tribe, except upon the written requisition of the [superintendent] in charge of the tribe, and only upon public bids in the mode prescribed by the preceding section.
Act July 8, 1892, c. 195, § 5, 28 Stat. 529.
The word "superintendent," inclosed in brackets in this section, has become inoperative; no appropriation for any superintendent of Indian affairs having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271. The section may be regarded as applicable to any agent or other officer in charge of a tribe.
Subsequent more specific provisions regarding the purchase of supplies for the Indian service upon public notice by advertisement, with some exceptions, were made by Act April 30, 1906, c. 153, § 1, post, § 4040.

§ 4040. (Act April 30, 1906, c. 153, § 1.) Purchase of supplies; advertisement, when required; supplies for irrigation works; employment of and purchases from Indians.
No purchase of supplies for which appropriations are herein or hereinafter made for the Indian service, exceeding in the aggregate five hundred dollars in value at any one time, shall be made without first giving at least three weeks' public notice by advertisement, except in case of exigency, when, in the discretion of the Secretary of the Interior, who shall make official record of the facts constituting the exigency, and shall report the same to Congress at its next session, he may direct that purchases may be made in open market in amount not exceeding three thousand dollars at any one purchase: Provided, That hereafter supplies may

(1619)
§ 4040. (Tit. 28)

be purchased, contracts let, and labor employed for the construction of artesian wells, ditches, and other works for irrigation, not to exceed the sum of five thousand dollars in any one purchase or contract, in the discretion of the Secretary of the Interior, without advertising as hereinbefore provided: Provided further, That as far as practicable Indian labor shall be employed and purchase in the open market made from Indians, under the direction of the Secretary of the Interior. (35 Stat. 71.)

These were provisions of the Indian appropriation act for the fiscal year 1909, cited above.

§ 4041. (Act May 11, 1880, c. 85, § 1.) Purchase of articles manufactured at Indian schools.

That the Secretary of the Interior be, and he is hereby, authorized, whenever it can be done advantageously, to purchase for use in the Indian service, from Indian manual and training schools, in the manner customary among individuals such articles as may be manufactured at such schools, and which are used in the Indian service. Accounts of such transactions shall be kept in the Indian Bureau and in the training schools, and reports thereof made from time to time. (21 Stat. 131.)

This was a proviso annexed to an appropriation for purchase of Indian supplies in the Indian appropriation act for the fiscal year 1881, cited above.

§ 4042. (Act March 3, 1875, c. 132, § 9.) Bids under advertisements for goods, supplies, transportation, etc., exceeding $5,000, to be accompanied by certified check; forfeiture on failure to execute contract, if awarded.

Hereafter all bidders under any advertisement published by the Commissioner of Indian Affairs for proposals for goods, supplies, transportation, and so forth, for and on account of the Indian service, whenever the value of the goods, supplies, and so forth, to be furnished, or the transportation to be performed, shall exceed the sum of five thousand dollars, shall accompany their bids with a certified check, or draft payable to the order of the Commissioner of Indian Affairs, upon some United States depository or some one of such solvent national banks as the Secretary of the Interior may designate, which check or draft shall be five per centum on the amount of the goods, supplies, transportation, and so forth, as aforesaid; and in case any such bidder, on being awarded a contract, shall fail to execute the same with good and sufficient securities according to the terms on which such bid was made and accepted, such bidder shall forfeit the amount so deposited to the United States, and the same shall forthwith be paid into the Treasury of the United States; but if such contract shall be duly executed, as aforesaid, such draft or check so deposited shall be returned to the bidder. (18 Stat. 450.)

This section was a part of the Indian Department appropriation act for the fiscal year 1876, cited above.

A similar provision was made by the Indian appropriation act for the preceding year, Act June 22, 1874, c. 889, § 6, 18 Stat. 176.

(1620)
§ 4043. (Act March 3, 1875, c. 132, § 7.) Copies of contracts to be furnished to auditor before payment thereon.

Copies of all contracts made by the Commissioner of Indian Affairs, or any other officer of the Government, for the Indian service, shall be furnished to the [Second Auditor of the Treasury] before any payment shall be made thereon. (18 Stat. 450.)

This was a proviso annexed to section 7 of the Indian appropriation act for the fiscal year 1876, cited above.

The words of this provision, "Second Auditor of the Treasury," inclosed in brackets, were superseded by the change of the designation of the Second Auditor to "Auditor for the War Department," and by the provisions for examination by the Auditor for the Interior Department of all accounts relating to Indians, etc., of the Dockery Act of July 31, 1894, c. 174, §§ 3, 7, ante, §§ 417, 420.

A subsequent requirement that an abstract of all bids, etc., for supplies or services, embraced in any contract, be filed with the contract, was made by a provision of Act Aug. 15, 1876, c. 289, § 3, post, § 4044.

§ 4044. (Act Aug. 15, 1876, c. 289, § 3.) Proposals or bids for contracts to be preserved; abstract of bids, etc., to be filed with contract in Treasury Department.

That in all lettings of contracts in connection with the Indian service, the proposals or bids received shall be filed and preserved; * * * and an abstract of all bids or proposals received for the supplies or services embraced in any contract shall be attached to, and filed with, the said contract when the same is filed in the office of [the Second Comptroller of the Treasury]. (19 Stat. 199.)

This section was part of the Indian appropriation act for the fiscal year 1877, cited above.

The portion of this section omitted here, requiring that in the annual report of the Commissioner of Indian Affairs, there should be embodied a statement of all bids and proposals received for any services, supplies, etc., for the Indian service, with a statement of all awards of contracts for such services, supplies, etc., was repealed by Act June 21, 1906, c. 3504, 34 Stat. 323.

The words of this section, "the Second Comptroller of the Treasury," inclosed in brackets, were superseded by the abolition of the office of Second Comptroller, and the provisions for examination by the Auditor for the Interior Department of all accounts relating to Indians, etc., by the Dockery Act of July 31, 1894, c. 174, §§ 4, 7, ante, §§ 402, 420.

§ 4045. (R. S. § 2083.) Purchase of supplies without authority of law.

No claims for supplies for Indians, purchased without authority of law, shall be paid out of any appropriation for expenses of the Office of Indian Affairs, or for Indians.


§ 4046. (Act Aug. 15, 1894, c. 290, § 4.) Contracts for supplies in advance of appropriations.

Hereafter the Commissioner of Indian Affairs is authorized to advertise in the spring of each year for bids, and enter into contracts, subject to the approval of the Secretary of the Interior, for goods and supplies for the Indian service required for the ensuing fiscal year, notwithstanding the fact that the appropriations for such fiscal year have not been made, and the contracts so made shall be on the basis of the appropriations for the preceding fiscal year (1621)
§ 4046. INDIANS (Tit. 28)

year, and shall contain a clause that no deliveries shall be made under the same and no liability attach to the United States in consequence of such execution if Congress fails to make an appropriation for such contract for the fiscal year for which those supplies are required. (28 Stat. 312.)

This section was part of the Indian appropriation act for the fiscal year 1895, cited above.

Further provisions of this section, of a temporary nature merely, are omitted.

Provisions similar to those set forth here were made by previous appropriation acts.

§ 4047. (Act March 1, 1907, c. 2285.) Appropriations for supplies available immediately; time for distribution.

So much of the appropriations of any annual Indian appropriation Act as may be required to pay for goods and supplies, for expenses incident to their purchase, and for transportation of the same, for the fiscal year for which such appropriations are made, shall be immediately available, upon the approval of such Act, but no such goods or supplies shall be distributed or delivered to any of said Indians prior to the beginning of such fiscal year. (34 Stat. 1016.)

This was a provision annexed to provisions relating to the use of appropriations for employees, etc., in the Indian appropriation act for the fiscal year 1906, cited above.

§ 4048. (Act March 3, 1877, c. 101, § 1.) Transportation of supplies by wagon; performance by Indian labor; advertisement for bids.

Whenever practicable wagon transportation may be performed by Indian labor; and whenever it is so performed the Commissioner of Indian Affairs is hereby authorized to hire a storehouse at any railroad whenever necessary, and to employ a storekeeper therefor, and to furnish in advance the Indians who will do the transportation with wagons and harness, all the expenses incurred under this provision, to be paid out of this appropriation: Provided, That hereafter contracts involving an expenditure of more than two thousand dollars shall be advertised and let to the lowest responsible bidder. (19 Stat. 291.)

These were provisions accompanying appropriations for expenses of transportation of goods, etc., for Indians, in the Indian appropriation act for the fiscal year 1878, cited above.

Provisions similar to these, to some extent, were made by previous Indian appropriation acts.

§ 4049. (Act July 7, 1898, c. 571, § 1.) Transportation of supplies under contract or by common carriers.

From and after the passage of this Act, Indian goods and supplies shall be transported under contract as provided in the Act of March third, eighteen hundred and seventy-seven, or in open market by common carriers, as the Secretary of the Interior in his discretion shall determine. (30 Stat. 676.)

This was a provision of the deficiency appropriation act for the fiscal year 1898, cited above.

The provision of Act March 3, 1877, c. 101, § 1, mentioned in this provision, is set forth ante, § 4048.

(1622)
§ 4050. (Act April 30, 1908, c. 153.) Warehouses for goods at certain places.

Hereafter warehouses for the receipt, storage, and shipment of goods for the Indian Service shall be maintained at the following places: New York, Chicago, Omaha, Saint Louis, and San Francisco. (35 Stat. 73.)

This was a proviso annexed to an appropriation for expenses of purchasing goods, etc., in the Indian appropriation act for the fiscal year 1909, cited above.

§ 4051. (Act April 30, 1908, c. 153.) Transportation of supplies by land-grant railroads; basis and rate of compensation.

Hereafter payment for transportation of Indian goods and supplies shall include all Indian transportation lawfully due such land-grant railroads as have not received aid in Government bonds (to be adjusted in accordance with the decisions of the Supreme Court in cases decided under such land-grant Acts), but in no case shall more than fifty per centum of full amount of service be paid to said land-grant roads: Provided, That such compensation shall be computed upon the basis of the tariff or lower special rates for like transportation performed for the public at large, and shall be accepted as in full for all demands for such service: Provided further, That hereafter in expending money appropriated for this purpose a railroad company which has not received aid in bonds of the United States, and which obtained a grant of public lands to aid in the construction of its railroad on condition that such railroad should be a post route and military road, subject to the use of the United States for postal, military, naval, and other Government services, and also subject to such regulations as Congress may impose, restricting the charge for such Government transportation, having claims against the United States for transportation of Indian goods and supplies over such aided railroads, shall be paid out of the moneys appropriated for such purpose only on the basis of such rate for the transportation of such Indian goods and supplies as the Secretary of the Interior shall deem just and reasonable under the provisions set forth herein, such rate not to exceed fifty per centum of the compensation for such Government transportation as shall at that time be charged to and paid by private parties to any such company for like and similar transportation; and the amount so fixed to be paid shall be accepted as in full for all demands for such service. (35 Stat. 73.)

These were further provisions of the Indian appropriation act for the fiscal year 1909, cited above.

§ 4052. (Act June 30, 1913, c. 4, § 1.) Payment for wagon transportation of supplies from point of delivery by common carrier, etc.

All wagon transportation from the point where delivery is made by the last common carrier to the agency, school, or elsewhere, and between points on the reservation or elsewhere, shall hereafter be paid from the funds appropriated or otherwise available for the
support of the school, agency, or other project for which the supplies to be transported are purchased. (38 Stat. 79.)

This was a proviso annexed to an appropriation for purchase of supplies, etc., and transportation thereof, in the Indian appropriation act for the fiscal year 1914, cited above.

§ 4053. (R. S. § 2086.) Modes of paying annuities and distributing goods.

The payment of all moneys and the distribution of all goods stipulated to be furnished to any Indians, or tribe of Indians, shall be made in one of the following ways, as the President or the Secretary of the Interior may direct:

First. To the chiefs of a tribe, for the tribe.

Second. In cases where the imperative interest of the tribe or the individuals intended to be benefited, or any treaty stipulation, requires the intervention of an agency, then to such person as the tribe shall appoint to receive such moneys or goods; or if several persons be appointed, then upon the joint order or receipt of such persons.

Third. To the heads of the families and to the individuals entitled to participate in the moneys or goods.

Fourth. By consent of the tribe, such moneys or goods may be applied directly, under such regulations, not inconsistent with treaty stipulations, as may be prescribed by the Secretary of the Interior, to such purposes as will best promote the happiness and prosperity of the members of the tribe, and will encourage able-bodied Indians in the habits of industry and peace.


Special provisions as to payments per capita to individuals, and payments in satisfaction of judgments, made by Act June 10, 1896, c. 398, § 1, and Act March 3, 1911, c. 210, § 28, are set forth post, §§ 4054, 4055.

§ 4054. (Act June 10, 1896, c. 398, § 1.) Payments per capita to individual Indians.

Any sums of money hereafter to be paid per capita to individual Indians shall be paid to said Indians by an officer of the Government designated by the Secretary of the Interior. (29 Stat. 336.)

This was a provision of the deficiency appropriation act for the fiscal year 1897, cited above.

A previous provision authorising the Secretary of the Interior to detail an officer from his department or appoint a special agent to make or to superintend payments or disbursements of money to Indians individually, was made by Act March 2, 1895, c. 188, § 11, 28 Stat. 910.

A similar provision regarding payments to members of certain tribes in the Indian Territory was made by Act June 28, 1898, c. 517, § 19, 30 Stat. 502.

§ 4055. (Act March 3, 1911, c. 210, § 28.) Payments from appropriations in satisfaction of judgments.

Hereafter payments to Indians made from moneys appropriated by Congress in satisfaction of the judgment of any court shall be made under the direction of the officers of the Interior Department charged by law with the supervision of Indian affairs, and all such payments (1624)
shall be accounted for to the Treasury in conformity with law. (36 Stat. 1077.)

This section was part of the Indian appropriation act for the fiscal year 1912, cited above.

§ 4056. (R. S. § 2087.) Withholding of annuities on account of intoxicating liquors.

No annuities, or moneys, or goods, shall be paid or distributed to Indians while they are under the influence of any description of intoxicating liquor, nor while there are good and sufficient reasons leading the officers or agents, whose duty it may be to make such payments or distribution, to believe that there is any species of intoxicating liquor within convenient reach of the Indians, nor until the chiefs and headmen of the tribe shall have pledged themselves to use all their influence and to make all proper exertions to prevent the introduction and sale of such liquor in their country.

Act March 8, 1847, c. 66, § 3, 9 Stat. 208.

§ 4057. (R. S. § 2088.) Persons to be present at delivery of annuities.

The [superintendent,] agent, or sub-agent, together with such military officer as the President may direct, shall be present, and certify to the delivery of all goods and money required to be paid or delivered to the Indians.

Act June 30, 1834, c. 162, § 13, 4 Stat. 737.

The word “superintendent,” inclosed in brackets in this section, has become inoperative; no appropriation for any superintendent of Indian affairs having been made since Act March 8, 1877, c. 101, § 1, 19 Stat. 271.

§ 4058. (R. S. § 2089.) Mode of disbursements.

At the discretion of the President all disbursements of moneys, whether for annuities or otherwise, to fulfill treaty stipulations with individual Indians or Indian tribes, shall be made [in person by the superintendents of Indian affairs, where superintendencies exist, to all Indians or tribes within the limits of their respective superintendencies,] in the presence of the local agents and interpreters, who shall witness the same, under such regulations as the Secretary of the Interior may direct.


Indians 18 years of age were given the right to receive and receipt for annuity money due them, by Act March 1, 1899, c. 924, § 8, post, § 4059.

§ 4059. (Act March 1, 1899, c. 324, § 8.) Indians 18 years of age to have the right to receipt for annuity money.

Hereafter all Indians, when they shall arrive at the age of eighteen years, shall have the right to receive and receipt for all annuity money that may be due or become due to them, if not otherwise incapacitated under the regulations of the Indian Office. (30 Stat. 947.)

This section was part of the Indian appropriation act for the fiscal year 1900, cited above.

§ 4060. (R. S. § 2090.) Mode of distribution of goods.

Whenever goods and merchandise are delivered to the chiefs of a tribe, for the tribe, such goods and merchandise shall be turned over by the agent or superintendent of such tribe to the chiefs in bulk,

(1825)
§ 4060 INDIANS

and in the original package, as nearly as practicable, and in the presence of the head-men of the tribe, if practicable, to be distributed to the tribe by the chiefs in such manner as the chiefs may deem best, in the presence of the agent or superintendent.

Act April 10, 1869, c. 16, § 2, 16 Stat. 39.

§ 4061. (Act July 1, 1898, c. 545, § 7.) Commutation of rations, etc., and other supplies; payment per capita.

Hereafter when, in the judgment of the Secretary of the Interior, any Indian tribe, or part thereof, who are receiving rations and clothing and other supplies under this Act, are sufficiently advanced in civilization to purchase such rations and clothing and other supplies judiciously, they may commute the same and pay the value thereof in money per capita to such tribe or part thereof, the manner of such payment to be prescribed by the Secretary of the Interior. (30 Stat. 596.)

This section was part of the Indian appropriation act for the fiscal year 1898, cited above.

§ 4062. (Act March 3, 1875, c. 132, § 3.) Supplies to be distributed to able-bodied male Indians on condition of performance of services equal in value; exceptions authorized.

For the purpose of inducing Indians to labor and become self-supporting, it is provided that hereafter, in distributing the supplies and annuities to the Indians for whom the same are appropriated, the agent distributing the same shall require all able bodied male Indians between the ages of eighteen and forty-five to perform service upon the reservation, for the benefit of themselves or of the tribe, at a reasonable rate, to be fixed by the agent in charge, and to an amount equal in value to the supplies to be delivered; and the allowances provided for such Indians shall be distributed to them only upon condition of the performance of such labor, under such rules and regulations as the agent may prescribe: Provided, That the Secretary of the Interior may, by written order, except any particular tribe, or portion of tribe, from the operation of this provision where he deems it proper and expedient. (18 Stat. 449.)

This section and the two sections next following were sections 3, 4, and 6 of the Indian appropriation act for the fiscal year 1876, cited above.

§ 4063. (Act March 3, 1875, c. 132, § 4.) Rolls of Indians entitled to supplies to be made at commencement of fiscal year; times for giving out supplies.

Hereafter, for the purpose of properly distributing the supplies appropriated for the Indian service, it is hereby made the duty of each agent in charge of Indians and having supplies to distribute, to make out, at the commencement of each fiscal year, rolls of the Indians entitled to supplies at the agency, with the names of the Indians and of the heads of families or lodges, with the number in each family or lodge, and to give out supplies to the heads of families, and not to the heads of tribes or bands, and not to give out supplies for a greater length of time than one week in advance. (18 Stat. 449.)

See note to section 8 of this act, ante, § 4062.

A provision similar to this section, but only "for the purpose of properly (1628)
§ 4064. (Act March 3, 1875, c. 132, § 6.) Supplies to be so distributed as to prevent deficiencies; no expenditure beyond appropriations.

Hereafter, it shall be the duty of the Secretary of the Interior, and the officers charged by law with the distribution of supplies to the Indians, under appropriations made by law, to distribute them and pay them out to the Indians entitled to them, in such proper proportions as that the amount of appropriation made for the current year shall not be expended before the end of such current year, so as to prevent deficiencies; and no expenditure shall be made or liability incurred on the part of the Government on account of the Indian service for any fiscal year (unless in compliance with existing law) beyond the amount of money previously appropriated for said service during such year. (18 Stat. 450.)

See note to section 3 of this act, ante, § 4062.

A subsequent provision, "That hereafter, where funds appropriated in specific terms for a particular object are not sufficient for the object named, any other appropriation, general in its terms, which otherwise would be available may, in the discretion of the Secretary of the Interior, be used to accomplish the object for which the specific appropriation was made," of Act June 7, 1897, c. 3, § 11, 30 Stat. 83, was repealed by Act March 3, 1911, c. 210, § 1, 36 Stat. 1062.

§ 4065. (Act March 1, 1907, c. 2285.) Appropriations for subsistence; use of surplus to supply deficiency; purchase of stock cattle; report to Congress of diversions, etc.; appropriations to fulfill treaty obligations not to be used.

Hereafter the Secretary of the Interior, under the direction of the President, may use any surplus that may remain in any of the said appropriations for the purchase of subsistence for the several Indian tribes, to an amount not exceeding twenty-five thousand dollars in the aggregate, to supply any subsistence deficiency that may occur: Provided, That any diversions which shall be made under authority of this section shall be reported in detail, and the reason therefor, to Congress, at the session of Congress next succeeding such diversion: Provided, further, That the Secretary of the Interior, under direction of the President, may use any sums appropriated in this Act for subsistence, and not absolutely necessary for that purpose, for the purchase of stock cattle for the benefit of the tribe for which such appropriation is made, and shall report to Congress, at its next session thereafter, an account of his action under this provision: Provided further, That funds appropriated to fulfill treaty obligations shall not be used. (34 Stat. 1016.)

These were provisions of the Indian appropriation act for the fiscal year 1908, cited above.

Provisions similar to these, to a great extent, but without the word "hereafter," accompanied the appropriations for like purposes in the Indian appropriation acts for previous years.

Further provisions of this act, for diversion of appropriations for certain purposes to other uses, are set forth post, § 4098.

(1627)
§ 4066. (Act March 1, 1907, c. 2285.) Appropriations for employés and supplies; diversion to other uses; report to Congress thereof.

That the several appropriations made for millers, blacksmiths, engineers, carpenters, physicians, and other persons, and for various articles provided for by treaty stipulation for the several Indian tribes, may be diverted to other uses for the benefit of said tribes, respectively, within the discretion of the President, and with the consent of said tribes, expressed in the usual manner; and that he cause report to be made to Congress, at its next session thereafter, of his action under this provision. (34 Stat. 1016.)

These were further provisions of the Indian appropriation act for the fiscal year 1908, cited above.

These provisions followed immediately and in the same paragraph with provisions, beginning with the word "hereafter," for the transfer of funds provided for pay of specified employés and for detail of such employés for other service, which are set forth ante, § 4005.

See notes to said preceding paragraph.

(R. S. § 2091. Repealed.)

This section required that all persons, charged or trusted with the disbursement or application of money, goods, etc., for the benefit of the Indians, should settle their accounts, annually, at the Department of the Interior on the first day of October, and that copies of the same should be laid before Congress at the commencement of the ensuing session, by the proper accounting officers, together with a list of the names of all persons to whom money, goods, or effects had been delivered within the preceding year, for the benefit of the Indians, specifying the amount and object for which they were intended, and showing who are delinquents, if any, in forwarding their accounts, and also with a list of the names of all persons appointed or employed under this Title, with the dates of their appointment or employment, and the salary and pay of each.

It was superseded, as to the time of settlement of accounts, by a provision that all disbursing officers should render their accounts quarterly, of Act Aug. 30, 1890, c. 537, § 4, post, § 6617. And it was repealed by Act June 23, 1910, c. 431, § 19, 36 Stat. 860.

§ 4067. (R. S. § 2092.) Restriction on advances to agents or other disbursing officers.

No [superintendent of Indian affairs, or] Indian agent, or other disbursing officer in such service, shall have advanced to him, on Indian or public account, any money to be disbursed in future, until such [superintendent,] agent, or officer in such service has settled his accounts of the preceding year, and has satisfactorily shown that all balances in favor of the Government, which may appear to be in his hands, are ready to be paid over on the order of the Secretary of the Interior.

Act June 27, 1846, c. 34, § 1, 9 Stat. 20.

The words "superintendent of Indian affairs, or," and "superintendent," enclosed in brackets in this section, have become inoperative; no appropriation for any superintendent of Indian affairs having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271.

§ 4068. (Act April 30, 1908, c. 153.) Deposit in bank of moneys in hands of disbursing agents; bond of bank.

Hereafter any United States Indian agent, [superintendent,] or other disbursing agent of the Indian Service may deposit Indian (1628)
§ 4072

INDIANS

moneys, individual or tribal, coming into his hands as custodian, in such national bank or banks as he may select: Provided, That the bank or banks so selected by him shall first execute to said disbursing agent a bond, with approved surety, in such an amount as will properly safeguard the funds to be deposited. Such bond shall be subject to the approval of the Secretary of the Interior. (35 Stat. 73.)

This was a provision of the Indian appropriation act for the fiscal year 1900, cited above.
The word "superintendent," enclosed in brackets in this section, has become inoperative; no appropriation for any superintendent of Indian affairs having been made since Act March 3, 1877, c. 101, § 1, 19 Stat. 271.

§ 4069. (R. S. § 2093.) Disposal of proceeds of sales of Indian lands.

All moneys received from the sales of lands that have been, or may be hereafter, ceded to the United States by Indian tribes, by treaties providing for the investment or payment to the Indians, parties thereto, of the proceeds of the lands ceded by them, respectively, after deducting the expenses of survey and sale, any sums stipulated to be advanced, and the expenses of fulfilling any engagements contained therein, shall be paid into the Treasury in the same manner that moneys received from the sales of public lands are paid into the Treasury.

Act Jan. 9, 1887, c. 1, § 1, 5 Stat. 135.

§ 4070. (R. S. § 2094.) Appropriation of moneys to carry out Indian treaties.

All sums that are or may be required to be paid, and all moneys that are or may be required to be invested by the treaties mentioned in the preceding section, are appropriated in conformity to them, and shall be drawn from the Treasury as other public moneys are drawn therefrom, under such instructions as may from time to time be given by the President.


§ 4071. (Act July 4, 1884, c. 180, § 10.) Proceeds of sales of Indian lands not subject to deductions for expenses of public land service.

No part of the expenses of the public lands service shall be deducted from the proceeds of Indian lands sold through the General Land Office, except as authorized by the treaty or agreement providing for the disposition of the lands. (23 Stat. 98.)

This section was part of the deficiency appropriation act for the fiscal year 1884, cited above.

§ 4072. (Act March 3, 1883, c. 141, § 1.) Disposal of proceeds of pasturage and sales of timber, coal or other products of reservations.

The proceeds of all pasturage and sales of timber, coal, or other product of any Indian reservation, except those of the five civilized tribes, and not the result of the labor of any member of such tribe, shall be covered into the Treasury for the benefit of such tribe under such regulations as the Secretary of the Interior shall prescribe; (1629)
§ 4073  INDIANS

and the Secretary shall report his action in detail to Congress at its next session. (22 Stat. 590.)

This was a provision of the deficiency appropriation act for the fiscal year 1884, cited above.

§ 4073. (R. S. § 2095.) Investments of stock required by treaties.

All investments of stock, that are or may be required by treaties with the Indians, shall be made under the direction of the President; and special accounts of the funds under such treaties shall be kept at the Treasury, and statements thereof be annually laid before Congress.


§ 4074. (R. S. § 2096.) Investment of proceeds of lands.

The Secretary of the Interior shall invest in a manner which shall be in his judgment most safe, and beneficial for the fund, all moneys that may be received under treaties containing stipulations for the payment to the Indians, annually, of interest upon the proceeds of the lands ceded by them; and he shall make no investment of such moneys, or of any portion, at a lower rate of interest than five per centum per annum.


Subsequent provisions for the custody, etc., of Indian trust funds, made by June 10, 1876, c. 122, and Act April 1, 1880, c. 41, are set forth post, §§ 4075, 4076.

§ 4075. (Act June 10, 1876, c. 122.) Custody of stocks, bonds, etc., held in trust for Indian tribes.

All stocks, bonds, or other securities or evidences of indebtedness now held by the Secretary of the Interior in trust for the benefit of certain Indian tribes shall, within thirty days from the passage of this act, be transferred to the Treasurer of the United States, who shall become the custodian thereof; and it shall be the duty of said Treasurer to collect all interest falling due on said bonds, stocks, &c., and deposit the same in the Treasury of the United States, and to issue certificates of deposit therefor, in favor of the Secretary of the Interior, as trustees for various Indian tribes. And the Treasurer of the United States shall also become the custodian of all bonds and stocks which may be purchased for the benefit of any Indian tribe or tribes after the transfer herein authorized, and shall make all purchases and sales bonds and stocks authorized by treaty-stipulations or by acts of Congress when requested so to do by the Secretary of the Interior: Provided, That nothing in this act shall in any manner impair or affect the supervisory and appellate powers and duties in regard to Indian affairs which may now be vested in the Secretary of the Interior as trustee for various Indian tribes, except as to the custody of said bonds and the collection of interest thereon as here-inbefore mentioned. (19 Stat. 58.)

This was an act entitled "An act transferring the custody of certain Indian trust funds."

§ 4076. (Act April 1, 1880, c. 41.) Deposit in Treasury, in lieu of investment, of Indian trust funds.

That the Secretary of the Interior be, and he is hereby, authorized (1630)
to deposit, in the Treasury of the United States, any and all sums now held by him, or which may hereafter be received by him, as Secretary of the Interior and trustee of various Indian tribes, on account of the redemption of United States bonds, or other stocks and securities belonging to the Indian trust-fund, and all sums received on account of sales of Indian trust lands, and the sales of stocks lately purchased for temporary investment, whenever he is of the opinion that the best interests of the Indians will be promoted by such deposits, in lieu of investments; and the United States shall pay interest semi-annually, from the date of deposit of any and all such sums in the United States Treasury, at the rate per annum stipulated by treaties or prescribed by law, and such payments shall be made in the usual manner, as each may become due, without further appropriation by Congress. (21 Stat. 70.)

This was an act entitled "An act to authorize the Secretary of the Interior to deposit certain funds in the United States Treasury in lieu of investment."

§ 4077. (Act June 30, 1913, c. 4, § 18.) Contracts with Indians relating to tribal funds or property in hands of United States not valid without consent of United States.

No contract made with any Indian, where such contract relates to the tribal funds or property in the hands of the United States, shall be valid, nor shall any payment for services rendered in relation thereto be made unless the consent of the United States has previously been given. (38 Stat. 97.)

This was a paragraph, following provisions relating to the Five Civilized Tribes, in section 18 of the Indian appropriation act for the fiscal year 1914, cited above.

§ 4078. (Act March 2, 1907, c. 2523, § 1.) Allotment of tribal funds to individual Indians.

The Secretary of the Interior is hereby authorized, in his discretion, from time to time, to designate any individual Indian belonging to any tribe or tribes whom he may deem to be capable of managing his or her affairs, and he may cause to be apportioned and allotted to any such Indian his or her pro rata share of any tribal or trust funds on deposit in the Treasury of the United States to the credit of the tribe or tribes of which said Indian is a member, and the amount so apportioned and allotted shall be placed to the credit of such Indian upon the books of the Treasury, and the same shall thereupon be subject to the order of such Indian: Provided, That no apportionment or allotment shall be made to any Indian until such Indian has first made an application therefor: Provided further, That the Secretaries of the Interior and of the Treasury are hereby directed to withhold from such apportionment and allotment a sufficient sum of the said Indian funds as may be necessary or required to pay any existing claims against said Indians that may be pending for settlement by judicial determination in the Court of Claims or in the Executive Departments of the Government, at time of such apportionment and allotment. (34 Stat. 1221.)

This and the section next following were an act entitled "An act providing for the allotment and distribution of Indian tribal funds." (1631)
§ 4079. (Act March 2, 1907, c. 2523, § 2.) Payment of share of tribal funds to helpless, etc., Indians.

The Secretary of the Interior is hereby authorized to pay any Indian who is blind, crippled, decrepit, or helpless from old age, disease, or accident, his or her share, or any portion thereof, of the tribal trust funds in the United States Treasury belonging to the tribe of which such Indian is a member, and of any other money which may hereafter be placed in the Treasury for the credit of such tribe and susceptible of division among its members, under such rules, regulations, and conditions as he may prescribe. (34 Stat. 1221.)

§ 4080. (Act April 4, 1910, c. 140, § 1.) Statements of accounts between United States and Indian tribes under reimbursable appropriations, and payment of balances.

Hereafter the Secretary of the Interior shall cause to be stated annual accounts between the United States and each tribe of Indians arising under appropriations heretofore, herein, or hereafter to be made, which by law are required to be reimbursed to the United States, crediting in said accounts the sums so reimbursed, if any; and the Secretary of the Interior shall pay, out of any fund or funds belonging to such tribe or tribes of Indians applicable thereto and held by the United States in trust or otherwise, all balances of accounts due to the United States and not already reimbursed to the Treasury, and deposit such sums in the Treasury as miscellaneous receipts; and such accounts shall be received and examined by the proper auditor of the Treasury Department and the balances arising thereon certified to the Secretary of the Treasury. (36 Stat. 270.)

These were provisions of the Indian appropriation act for the fiscal year 1911, cited above.

§ 4081. (R. S. § 2097.) Misapplication of funds belonging to the Indians prohibited.

No funds belonging to any Indian tribe with which treaty relations exist shall be applied in any manner not authorized by such treaty, or by express provisions of law; nor shall money appropriated to execute a treaty be transferred or applied to any other purpose, unless expressly authorized by law.

Act July 26, 1866, c. 206, § 2, 4 Stat. 280.

§ 4082. (R. S. § 2098.) Indian depredations, how paid.

No part of the moneys which may be appropriated in any general act or deficiency bill making appropriations for the current and contingent expenses incurred in Indian affairs, to pay annuities due to or to be used and expended for the care and benefit of any tribe or tribes of Indians, shall be applied to the payment of any claim for depredations that may have been or may be committed by such tribe or tribes, or any member or members thereof. No claims for Indian depredations shall be paid until Congress shall make special appropriation therefor.


(R. S. § 2099. Superseded.)

This section provided that moneys appropriated for purposes of education among the Indian tribes should not be expended elsewhere than in Indian (1632)
countryst, excepting certain expenditures authorized by treaty to be under
direction either of the President or of the Indian tribes. It is transferred
to Chapter 4 A of this Title, “Education of Indians.” But its provisions
were superseeded by a proviso annexed to Act July 31, 1882, c. 368, post, §
4165, that moneys appropriated for general purposes of education among
the Indians might be expended for education of Indian youth at such posts,
institutions, and schools as the Secretary of the Interior might consider
advantageous, or as Congress from time to time might authorize and provide.

§ 4083. (R. S. § 2100.) Annuities of Indians hostile to United
States not to be paid or delivered.

No moneys or annuities stipulated by any treaty with an In-
dian tribe for which appropriations are made shall be expended
for, or paid, or delivered to any tribe which, since the next pre-
ceding payment under such treaty, has engaged in hostilities
against the United States, or against its citizens peacefully or law-
fully sojourning or traveling within its jurisdiction at the time of
such hostilities; nor in such case shall such stipulated payments
or deliveries be resumed until new appropriations shall have been
made therefor by Congress. And the Commissioner of Indian Af-
fairs shall report to Congress, at each session, any case of hostili-
ties, by any tribe with which the United States has treaty stip-
ulations, which has occurred since his next preceding report.


Payment of appropriations to Indians at war with the United States was
prohibited by Act March 3, 1875, c. 132, § 2, post, § 4084.

§ 4084. (Act March 3, 1875, c. 132, § 2.) Appropriations not to be
paid to Indians at war with United States.

None of the appropriations herein made, or of any appropri-
tations made for the Indian service, shall be paid to any band of In-
dians or any portion of any band while at war with the United
States or with the white citizens of any of the States or Territor-
ies. (18 Stat. 449.)

This section was part of the Indian appropriation act for the fiscal year
1876, cited above.

§ 4085. (R. S. § 2101.) Goods withheld from chiefs who have viol-
ated treaty stipulations.

No delivery of goods or merchandise shall be made to the chiefs
of any tribe, by authority of any treaty, if such chiefs have viol-
ated the stipulations contained in such treaty upon their part.

Act April 10, 1869, c. 16, § 2, 16 Stat. 39.

(R. S. § 2102. Superseded.)

This section provided for withholding from any tribe of Indians holding
American captives any moneys due them, until such captives should have been
surrendered. It was superseded by a similar provision of Act March 3, 1875,
c. 132, § 1, post, § 4086.

§ 4086. (Act March 3, 1875, c. 132, § 1.) Moneys due Indians
holding captives other than Indians to be withheld.

That the Secretary of the Interior be authorized to withhold,
from any tribe of Indians who may hold any captives other than
Indians, any moneys due them from the United States until said

Comp.St.'13--103 (1633)
§ 4086. INDIANS

Captives shall be surrendered to the lawful authorities of the United States. (18 Stat. 424.)

This was a provision of the Indian appropriation act for the fiscal year 1876, cited above.

§ 4087. (R. S. § 2103.) Contracts with Indian tribes or Indians.

No agreement shall be made by any person with any tribe of Indians, or individual Indians not citizens of the United States, for the payment or delivery of any money or other thing of value, in present or in prospective, or for the granting or procuring any privilege to him, or any other person in consideration of services for said Indians relative to their lands, or to any claims growing out of, or in reference to, annuities, installments, or other moneys, claims, demands, or thing, under laws or treaties with the United States, or official acts of any officers thereof, or in any way connected with or due from the United States, unless such contract or agreement be executed and approved as follows:

First. Such agreement shall be in writing, and a duplicate of it delivered to each party.

Second. It shall be executed before a judge of a court of record, and bear the approval of the Secretary of the Interior and the Commissioner of Indian Affairs indorsed upon it.

Third. It shall contain the names of all parties in interest, their residence and occupation; and if made with a tribe, by their tribal authorities, the scope of authority and the reason for exercising that authority, shall be given specifically.

Fourth. It shall state the time when and place where made, the particular purpose for which made, the special thing or things to be done under it, and, if for the collection of money, the basis of the claim, the source from which it is to be collected, the disposition to be made of it when collected, the amount or rate per centum of the fee in all cases; and if any contingent matter or condition constitutes a part of the contract or agreement, it shall be specifically set forth.

Fifth. It shall have a fixed limited time to run, which shall be distinctly stated.

Sixth. The judge before whom such contract or agreement is executed shall certify officially the time when and place where such contract or agreement was executed, and that it was in his presence, and who are the interested parties thereto, as stated to him at the time; the parties present making the same; the source and extent of authority claimed at the time by the contracting parties to make the contract or agreement, and whether made in person or by agent or attorney of either party or parties.

All contracts or agreements made in violation of this section shall be null and void, and all money or other thing of value paid to any person by any Indian or tribe, or any one else, for or on his or their behalf, on account of such services, in excess of the amount approved by the Commissioner and Secretary for such services, may be recovered by suit in the name of the United

(1634)
States in any court of the United States, regardless of the amount in controversy; and one-half thereof shall be paid to the person suing for the same, and the other half shall be paid into the Treasury for the use of the Indian or tribe by or for whom it was so paid.


Provisions of the same nature as those of this section, relating to private contracts or agreements with Indian tribes or Indians, made prior to the date of Act May 21, 1872, c. 177, cited above, which was incorporated into this section of the Revised Statutes, were made by Act April 29, 1874, c. 135, 18 Stat. 35. That act is omitted, as temporary merely.

§ 4088. (R. S. § 2104.) Payments under contracts restricted.

No money shall be paid to any agent or attorney by an officer of the United States under any such contract or agreement, other than the fees due him for services rendered thereunder; but the moneys due the tribe, Indian, or Indians, as the case may be, shall be paid by the United States, through its own officers or agents, to the party or parties entitled thereto; and no money or thing shall be paid to any person for services under such contract or agreement, until such person shall have first filed with the Commissioner of Indian Affairs a sworn statement, showing each particular act of service under the contract, giving date and fact in detail, and the Secretary of the Interior and Commissioner of Indian Affairs shall determine therefrom whether, in their judgment, such contract or agreement has been complied with or fulfilled; if so, the same may be paid, and, if not, it shall be paid in proportion to the services rendered under the contract.


§ 4089. (R. S. § 2105.) Receiving moneys under prohibited contracts punishable; prosecution therefor; Indian agents or employees of United States aiding in making prohibited contracts or payments to be dismissed from the service.

The person so receiving such money contrary to the provisions of the two preceding sections, and his aids and abettors, shall, in addition to the forfeiture of such sum, be punishable by imprisonment for not less than six months, and by a fine of not less than one thousand dollars. And it shall be the duty of all district attorneys to prosecute such cases when applied to do so, and their failure and refusal shall be ground for their removal from office. Any Indian agent, or other person in the employment of the United States, who shall, in violation of the provisions of the preceding section, advise, sanction, or in any way aid in the making of such contracts or agreements, or in making such payments as are here prohibited, shall, in addition to the punishment herein imposed on the person making such contract, or receiving such money, be, on conviction, dismissed from the service of the United States, and be forever disqualified from holding any office of profit or trust under the same.

Act March 3, 1871, c. 120, § 8, 16 Stat. 570.

(1885)
§ 4090. (R. S. § 2106.) Assignments of contracts restricted.

No assignment of any contracts embraced by section twenty-one hundred and three, or of any part of one shall be valid, unless the names of the assignees and their residences and occupations be entered in writing upon the contract, and the consent of the Secretary of the Interior and the Commissioner of Indian Affairs to such assignment be also indorsed thereon.

R. S. § 2105, mentioned in this section, is set forth ante, § 4067.

(R. S. § 2107. Superseded.)

This section provided that no payments should be made to contractors for goods or supplies furnished to Indians, or for transportation thereof, or for buildings or machinery erected or placed on their reservations, under any contract with the Department of the Interior, on receipts or certificates of Indian agents, etc., for such supplies, etc., for more than 50 per cent. of the amount due, until the accounts and vouchers should have been submitted to the executive committee of the Board of Indian Commissioners, for examination, revision, and approval; that such Board should forward the accounts and vouchers submitted to them to the Secretary of the Interior, with the reasons for their approval or disapproval of the same; and that the Secretary should have power to sustain, set aside, or modify the action of the Board, and cause payment to be made or withheld, as he should determine.

These provisions contemplated the exercise, by the Board, of the duty "to supervise all expenditures of money appropriated for the benefit of Indians," under R. S. § 2041; but they were superseded by the subsequent provision that "the Commission shall only have power to visit and inspect agencies and other branches of the Indian service, and to inspect goods purchased for said service," etc., of Act May 17, 1882, c. 163, § 1, ante, § 3962.

§ 4091. (Act July 4, 1884, c. 180, § 8.) False vouchers, accounts, or claims presented by officers or other persons; effect to prevent payment or credit.

Any disbursing or other officer of the United States, or other person, who shall knowingly present, or cause to be presented, any voucher, account, or claim to any officer of the United States, for approval or payment, or for the purpose of securing a credit in any account with the United States, relating to any matter pertaining to the Indian service, which shall contain any material misrepresentation of fact in regard to the amount due or paid, the name or character of the article furnished or received; or of the service rendered, or to the date of purchase, delivery, or performance of service, or in any other particular, shall not be entitled to payment or credit for any part of said voucher, account, or claim; and if any such credit shall be given or received, or payment made, the United States may re-charge the same to the officer or person receiving the credit or payment, and recover the amount from either or from both, in the same manner as other debts due the United States are collected: Provided, That where an account contains more than one voucher the foregoing shall apply only to such vouchers as contain the misrepresentation: And provided further, That the officers and persons by and between whom the business is transacted shall, in all civil actions in settlement of accounts, be presumed to know the facts in relation to the matter (1636)
set forth in the voucher, account, or claim: And provided further, That the foregoing shall be in addition to the penalties now prescribed by law, and in no way affect proceedings under existing law for like offenses. That where practicable this section shall be printed on the blank forms of vouchers provided for general use. (23 Stat. 97.)
This section was part of the Indian appropriation act for the fiscal year 1885, cited above.

§ 4092. (R. S. § 2108.) Moneys due incompetent or orphan Indians.
The Secretary of the Interior is directed to cause settlements to be made with all persons appointed by Indian councils to receive moneys due to incompetent or orphan Indians, and to require all moneys found due to such incompetent or orphan Indians to be returned to the Treasury; and all moneys so returned shall bear interest at the rate of six per centum per annum, until paid by order of the Secretary of the Interior to those entitled to the same. No money shall be paid to any person appointed by any Indian council to receive moneys due to incompetent or orphan Indians, but the same shall remain in the Treasury of the United States until ordered to be paid by the Secretary to those entitled to receive the same, and shall bear six per centum interest until so paid.

Act July 5, 1862, c. 135, § 6, 12 Stat. 529.

§ 4093. (R. S. § 2109.) Number of Indians present and receiving food, etc., to be reported.
Whenever the issue of food, clothing, or supplies of any kind to Indians is provided for, it shall be the duty of the agent or commissioner issuing the same, at such issue thereof, whether it be both of food and clothing, or either of them, or of any kind of supplies, to report to the Commissioner of Indian Affairs the number of Indians present and actually receiving the same.


§ 4094. (R. S. § 2110.) Rations for Indians.
The President is authorized to cause such rations as he deems proper, and as can be spared from the Army provisions without injury to the service, to be issued, under such regulations as he shall think fit to establish, to Indians who may visit the military posts or agencies of the United States on the frontiers, or in their respective nations; and a special account of these issues shall be kept and rendered.

Act June 30, 1834, c. 162, § 16, 4 Stat. 788.
CHAPTER THREE
Government and Protection of Indians

Sec. 4095. Sending seditious messages; penalty.

Sec. 4096. Carrying seditious messages; penalty.

Sec. 4097. Correspondence with foreign nations, to excite Indians to war; penalty.

Sec. 4098. General superintendence by the President over tribes removed west of the Mississippi.

Sec. 4099. Survey of Indian reservations.

Sec. 4100. Purchases or grants of lands from Indians.

Sec. 4101. Fees payable on behalf of Indian parties in contests under public land laws; amount and payment thereof.

Sec. 4102. District attorneys to represent Indians in all suits in certain States, etc.

Sec. 4103. White men marrying Indian women not to acquire any right to tribal property, etc.

Sec. 4104. Indian women marrying white men to become citizens of United States; right to tribal property, etc., not affected thereby.

Sec. 4105. Evidence of marriage of white man with Indian woman.

Sec. 4106. Children of marriages previous to act between white men and Indian women to have same rights, etc., as mother, to property, etc., of tribe.

Sec. 4107. Driving stock to feed on Indian lands.

Sec. 4108. Settling on or surveying lands belonging to Indians by treaty.

Sec. 4109. Protection of Indians desiring civilized life.

Sec. 4110. Indians trespassing upon lands of civilized Indians.

Sec. 4111. Suspension of chief for trespass.

Sec. 4112. Sale of buildings belonging to the United States.

Sec. 4113. Sale of lands with buildings.

Sec. 4114. Government of property at Indian reservation or school, not required for use; removal authorised.

Sec. 4115. Government property at Indian reservation, not required for use; transfer or sale authorised; disposition of proceeds of sale.

Sec. 4116. Penalties under this Title; how recovered.

Sec. 4117. Proceedings against goods seized for violation of this Title.

Sec. 4118. Burden of proof in trials of right of property between Indians and white persons.

Sec. 4119. Indians on reservations not to be permitted to go into State of Texas.

Sec. 4120. Sale by agents of cattle, horses, etc., of Indians not required for their use, authorised.

Sec. 4121. Sale of cattle of Indians purchased by Government to persons not members of the tribe, etc., forbidden, except with written consent of agent; purchase in violations of provision punishable.

Sec. 4122. Sale or other disposition of dead timber, by Indians on reservations, authorised.

Sec. 4123. Sale or other disposition of dead timber, by Indians on reservations, etc., in Minnesota, authorised.

Sec. 4124. Fund for encouraging agricultural industry among Indians; conditions for repayments; disposition of repayments; report of use of fund.

Sec. 4125. Additional fund for encouraging agricultural industry among Indians; conditions for repayments; disposition of repayments; report of use of fund.

Sec. 4126. Access to records of Five Civilised Tribes by Secretary of Interior.

§ 4095. (R. S. § 2111.) Sending seditious messages; penalty.

Every person who sends any talk, message, or letter to any Indian nation, tribe, chief, or individual, with an intent to produce a contravention or infraction of any treaty or law of the United
States, or to disturb the peace and tranquility of the United States, is liable to a penalty of two thousand dollars.


§ 4096. (R. S. § 2112.) Carrying seditious messages; penalty.
Every person who carries or delivers any talk, message, speech, or letter, intended to produce a contravention or infraction of any treaty or law of the United States, or to disturb the peace or tranquility of the United States, knowing the contents thereof, to or from any Indian nation, tribe, chief, or individual, from or to any person or persons whatever, residing within the United States, or from or to any subject, citizen, or agent of any foreign power or state, is liable to a penalty of one thousand dollars.

Act June 30, 1834, c. 161, § 14, 4 Stat. 731.

§ 4097. (R. S. § 2113.) Correspondence with foreign nations, to excite Indians to war; penalty.
Every person who carries on a correspondence, by letter or otherwise, with any foreign nation or power, with an intent to induce such foreign nation or power to excite any Indian nation, tribe, chief, or individual, to war against the United States, or to the violation of any existing treaty; or who alienates, or attempts to alienate, the confidence of any Indian or Indians from the Government of the United States, is liable to a penalty of one thousand dollars.


§ 4098. (R. S. § 2114.) General superintendence by the President over tribes removed west of the Mississippi.
The President is authorized to exercise general superintendence and care over any tribe or nation which was removed upon an exchange of territory under authority of the act of May twenty-eighth, eighteen hundred and thirty, "to provide for an exchange of lands with the Indians residing in any of the States or Territories, and for their removal west of the Mississippi;" and to cause such tribe or nation to be protected, at their new residence, against all interruption or disturbance from any other tribe or nation of Indians, or from any other person or persons whatever.

Act May 28, 1830, c. 148, §§ 7, 8, 4 Stat. 412.

§ 4099. (R. S. § 2115.) Survey of Indian reservations.
Whenever it becomes necessary to survey any Indian or other reservations, or any lands, the same shall be surveyed under the direction and control of the General Land-Office, and as nearly as may be in conformity to the rules and regulations under which other public lands are surveyed.

Act April 8, 1864, c. 48, § 6, 13 Stat. 41.

§ 4100. (R. S. § 2116.) Purchases or grants of lands from Indians.
No purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same
§ 4100  INDIANS (Tit. 28)

be made by treaty or convention entered into pursuant to the Constitution. Every person who, not being employed under the authority of the United States, attempts to negotiate such treaty or convention, directly or indirectly, or to treat with any such nation or tribe of Indians for the title or purchase of any lands by them held or claimed, is liable to a penalty of one thousand dollars. The agent of any State who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner of the United States appointed to hold the same, may, however, propose to, and adjust with, the Indians the compensation to be made for their claim to lands within such State, which shall be extinguished by treaty.

Act June 30, 1834, c. 161, § 12, 4 Stat. 780.

In any suit in the Supreme Court to determine the right of a State to school lands within any Indian reservation or Indian cession, where an Indian tribe claims any right to or interest in the lands, etc., the right of such State may be fully tested and determined without making the Indian tribe a party to the suit, if the Secretary of the Interior is made a party thereto, and the duty of representing and defending the right or interest of the Indian tribe shall devolve upon the Attorney-General, on request of the Secretary, by Act March 2, 1901, c. 806, post, § 4351.

§ 4101. (Act March 3, 1893, c. 209, § 1.) Fees payable on behalf of Indian parties in contests under public land laws; amount and payment thereof.

To enable the Secretary of the Interior, in his discretion, to pay the legal costs incurred by Indians in contests initiated by or against them, to an entry, filing or other claims, under the laws of Congress relating to public lands for any sufficient cause affecting the legality or validity of the entry, filing or claim, five thousand dollars: Provided, That the fees to be paid by and on behalf of the Indian party in any case shall be one-half of the fees provided by law in such cases, and said fees shall be paid by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, on an account stated by the proper land officers through the Commissioner of the General Land Office. (27 Stat. 631.)

This was a provision of the Indian appropriation act for the fiscal year 1894, cited above.

Appropriations for legal expenses in various suits, etc., on behalf of or against Indians, including hearings by local land officers to determine rights of Indians to public lands, are made by the annual Indian appropriation acts. The provision for the fiscal year 1914 was by Act June 80, 1913, c. 4, § 1, 38 Stat. 80.

§ 4102. (Act March 3, 1893, c. 209, § 1.) District attorneys to represent Indians in all suits in certain States, etc.

In all States and Territories where there are reservations or allotted Indians the United States District Attorney shall represent them in all suits at law and in equity. (27 Stat. 631.)

This was a further provision of the Indian appropriation act for the fiscal year 1894, cited above.

(1640)
§ 4103. (Act Aug. 9, 1888, c. 818, § 1.) White men marrying Indian women not to acquire any right to tribal property, etc.

No white man, not otherwise a member of any tribe of Indians, who may hereafter marry, an Indian woman, member of any Indian tribe in the United States, or any of its Territories except the five civilized tribes in the Indian Territory, shall by such marriage hereafter acquire any right to any tribal property, privilege, or interest whatever to which any member of such tribe is entitled. (25 Stat. 392.)

This section and the two sections next following were an act entitled "An act in relation to marriage between white men and Indian women."

§ 4104. (Act Aug. 9, 1888, c. 818, § 2.) Indian women marrying white men to become citizens of United States; right to tribal property, etc., not affected thereby.

Every Indian woman, member of any such tribe of Indians, who may hereafter be married to any citizen of the United States, is hereby declared to become by such marriage a citizen of the United States, with all the rights, privileges, and immunities of any such citizen, being a married woman: Provided, That nothing in this act contained shall impair or in any way affect the right or title of such married woman to any tribal property or any interest therein. (25 Stat. 392.)

§ 4105. (Act Aug. 9, 1888, c. 818, § 3.) Evidence of marriage of white man with Indian woman.

Whenever the marriage of any white man with any Indian woman, a member of any such tribe of Indians, is required or offered to be proved in any judicial proceeding, evidence of the admission of such fact by the party against whom the proceeding is had, or evidence of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent. (25 Stat. 392.)

§ 4106. (Act June 7, 1897, c. 3, § 1.) Children of marriages previous to act between white men and Indian women to have same rights, etc., as mother, to property, etc., of tribe.

All children born of a marriage heretofore solemnized between a white man and an Indian woman by blood and not by adoption, where said Indian woman is at this time, or was at the time of her death, recognized by the tribe shall have the same rights and privileges to the property of the tribe to which the mother belongs, or belonged at the time of her death, by blood, as any other member of the tribe, and no prior Act of Congress shall be construed as to debar such child of such right. (30 Stat. 90.)

This was a provision of section 1 of the Indian appropriation act for the fiscal year 1898, cited above.

§ 4107. (R. S. § 2117.) Driving stock to feed on Indian lands.

Every person who drives or otherwise conveys any stock of horses, mules, or cattle, to range and feed on any land belonging to

(1641)
any Indian or Indian tribe, without the consent of such tribe, is liable to a penalty of one dollar for each animal of such stock.

Act June 30, 1834, c. 161, § 9, 4 Stat. 730.

§ 4108. (R. S. § 2118.) Settling on or surveying lands belonging to Indians by treaty.

Every person who makes a settlement on any lands belonging, secured, or granted by treaty with the United States to any Indian tribe, or surveys or attempts to survey such lands, or to designate any of the boundaries by marking trees, or otherwise, is liable to a penalty of one thousand dollars. The President may, moreover, take such measures and employ such military force as he may judge necessary to remove any such person from the lands.

Act June 30, 1834, c. 161, § 11, 4 Stat. 730.

§ 4109. (R. S. § 2119.) Protection of Indians desiring civilized life.

Whenever any Indian, being a member of any band or tribe with whom the Government has or shall have entered into treaty stipulations, being desirous to adopt the habits of civilized life, has had a portion of the lands belonging to his tribe allotted to him in severalty, in pursuance of such treaty stipulations, the agent and superintendent of such tribe shall take such measures, not inconsistent with law, as may be necessary to protect such Indian in the quiet enjoyment of the lands so allotted to him.

Act June 14, 1862, c. 101, § 1, 12 Stat. 427.

§ 4110. (R. S. § 2120.) Indians trespassing upon lands of civilized Indians.

Whenever any person of Indian blood belonging to a band or tribe which receives or is entitled to receive annuities from the United States, and who has not adopted the habits and customs of civilized life, and received his lands in severalty by allotment, as mentioned in the preceding section, commits any trespass upon the lands or premises of any Indian who has so received his lands by allotment, the superintendent and agent of such band or tribe shall ascertain the damages resulting from such trespass, and the sum so ascertained shall be withheld from the payment next thereafter to be made, either to the band or tribe to which the party committing such trespass shall belong, as in the discretion of the superintendent he shall deem proper; and the sum so withheld shall, if the Secretary of the Interior approves, be paid over by the agent or superintendent to the party injured.

Act June 14, 1862, c. 101, § 2, 12 Stat. 427.

§ 4111. (R. S. § 2121.) Suspension of chief for trespass.

Whenever such trespasser as is mentioned in the preceding section is the chief or head-man of a band or tribe, the superintendent of Indian affairs in his district shall also suspend the trespasser from his office for three months, and shall during that time deprive him of all the benefits and emoluments connected therewith;
but the chief or head-man may be sooner restored to his former standing if the superintendent shall so direct.


§ 4112. (R. S. § 2122.) Sale of buildings belonging to the United States.

The Secretary of the Interior is authorized to cause all such buildings belonging to the United States, as have been, or hereafter shall be, erected for the use of their agents, teachers, farmers, mechanics, and other persons employed amongst the Indians, to be sold whenever the lands on which the same are erected have become the property of the United States, and are no longer necessary for such purposes.

Act March 3, 1843, c. 78, § 1, 5 Stat. 611.

§ 4113. (R. S. § 2123.) Sale of lands with buildings.

The Secretary of the Interior is authorized to cause to be sold, at his discretion, with each of such buildings as are mentioned in the preceding section, a quantity of land not exceeding one section; and on the payment of the consideration agreed for into the Treasury of the United States by the purchaser, the Secretary shall make, execute, and deliver to the purchaser a title in fee-simple for such lands and tenements.

Act March 3, 1843, c. 78, § 2, 5 Stat. 611.

§ 4114. (Act March 1, 1907, c. 2285.) Government property at Indian reservation or school, not required for use; removal authorized.

Hereafter where there is Government property on hand at any of the Indian reservations or schools not required for the use or benefit of the Indians of said reservations or schools, the Secretary of the Interior is hereby authorized to move such property to other Indian reservations or schools where it may be required. (34 Stat. 1016.)

This was a provision of the Indian appropriation act for the fiscal year 1908, cited above.

Other provisions for the disposition of Government property at Indian reservations, not required for the use of the Indians, were made by Act July 1, 1898, c. 545, § 6, as amended by Act June 25, 1910, c. 431, § 22, post, § 4115.

§ 4115. (Act July 1, 1898, c. 545, § 6, as amended, Act June 25, 1910, c. 431, § 22.) Government property at Indian reservation, not required for use; transfer or sale authorized; disposition of proceeds of sale.

Whenever there is on hand at any of the Indian reservations government property not required for the use and benefit of the Indians on such reservations, the Secretary of the Interior is authorized to cause any such property to be transferred to any other Indian reservation where it may be used advantageously, or to cause it to be sold and the proceeds thereof deposited and covered into the Treasury in conformity with section thirty-six hundred and eighteen (1643)
§ 4115

of the Revised Statutes of the United States. (30 Stat. 596. 36 Stat. 861.)

This section was part of the Indian appropriation act for the fiscal year 1899, first cited above.
The section, as originally enacted, authorized the Secretary of the Interior "to move such property to other Indian reservations where it may be required, or to sell it and apply the proceeds of same in the purchase of such articles as may be needed for the use of the Indians for whom said property was purchased," and required him to make report of his action to the next session of Congress thereafter. It was amended to read as set forth here, by Act June 25, 1910, c. 431, § 22, which section was part of an act to provide for determining heirs of deceased Indians, etc., last cited above.

A similar provision for the removal of Government property at any Indian reservation or school, to other reservations or schools where it may be required, made by Act March 1, 1907, c. 2285, is set forth ante, § 4114.

§ 4116. (R. S. § 2124.) Penalties under this Title; how recovered.

All penalties which shall accrue under this Title shall be sued for and recovered in an action in the nature of an action of debt, in the name of the United States, before any court having jurisdiction of the same, in any State or Territory in which the defendant shall be arrested or found, the one-half to the use of the informer and the other half to the use of the United States, except when the prosecution shall be first instituted on behalf of the United States, in which case the whole shall be to their use.

Act June 30, 1834, c. 101, § 27, 4 Stat. 733.
The provisions of this Title, mentioned in this section, were the preceding sections 2111–2123 of the Revised Statutes, ante, §§ 4005–4100, 4107–4113.

§ 4117. (R. S. § 2125.) Proceedings against goods seized for violation of this Title.

When goods or other property shall be seized for any violation of this Title, it shall be lawful for the person prosecuting on behalf of the United States to proceed against such goods, or other property, in the manner directed to be observed in the case of goods, wares, or merchandise brought into the United States in violation of the revenue laws.

Act June 30, 1834, c. 161, § 28, 4 Stat. 734.

§ 4118. (R. S. § 2126.) Burden of proof in trials of right of property between Indians and white persons.

In all trials about the right of property in which an Indian may be a party on one side, and a white person on the other, the burden of proof shall rest upon the white person, whenever the Indian shall make out a presumption of title in himself from the fact of previous possession or ownership.

Act June 30, 1834, c. 161, § 22, 4 Stat. 733.

§ 4119. (Act May 11, 1880, c. 85, § 4.) Indians on reservations not to be permitted to go into State of Texas.

All officers and agents of the Army and Indian bureaus are prohibited, except in a case specially directed by the President, from granting permission in writing or otherwise to any Indian or Indians on any reservation to go into the State of Texas under any pretext whatever; and any officer or agent of the Army or Indian (1644)
Bureau who shall violate this provision shall be dismissed from the public service. And the Secretary of the Interior is hereby directed and required to take at once such other reasonable measures as may be necessary in connection with said prohibition to prevent said Indians from entering said State. (21 Stat. 132.)

This was a proviso annexed to section 4 of the Indian appropriation act for the fiscal year 1881, cited above.

§ 4120. (R. S. § 2127.) Sale by agents of cattle, horses, etc., of Indians not required for their use, authorized.

The agent of each tribe of Indians, lawfully residing in the Indian country, is authorized to sell for the benefit of such Indians any cattle, horses, or other live stock belonging to the Indians, and not required for their use and subsistence, under such regulations as shall be established by the Secretary of the Interior. But no such sale shall be made so as to interfere with the execution of any order lawfully issued by the Secretary of War, connected with the movement or subsistence of troops.


§ 4121. (Act July 4, 1884, c. 180, § 1.) Sale of cattle of Indians purchased by Government to persons not members of the tribe, etc., forbidden, except with written consent of agent; purchase in violation of provision punishable.

Where Indians are in possession, or under control of cattle or their increase which have been purchased by the Government such cattle shall not be sold to any person not a member of the tribe to which the owners of the cattle belong or to any citizen of the United States whether intermarried with the Indians or not except with the consent in writing of the agent of the tribe to which the owner or possessor of the cattle belongs. And all sales made in violation of this provision shall be void and the offending purchaser on conviction thereof shall be fined not less than five hundred dollars and imprisoned no less than six months. (23 Stat. 94.)

These were provisions of section 1 of the Indian appropriation act for the fiscal year 1885, cited above.

§ 4122. (Act Feb. 16, 1889, c. 172.) Sale or other disposition of dead timber, by Indians on reservations, authorized.

The President of the United States may from year to year in his discretion under such regulations as he may prescribe authorize the Indians residing on reservations or allotments, the fee to which remains in the United States, to fell, cut, remove, sell or otherwise dispose of the dead timber standing or fallen, on such reservation or allotment for the sole benefit of such Indian or Indians. But whenever there is reasonable cause to believe that such timber has been killed, burned, girdled, or otherwise injured for the purpose of securing its sale under this act then in that case such authority shall not be granted. (25 Stat. 673.)

This was an act entitled "An act in relation to dead and fallen timber on Indian lands."

(1845)
§ 4123. (Act June 7, 1897, c. 3, § 1.) Sale or other disposition of dead timber, by Indians on reservations, etc., in Minnesota, authorized.

The Secretary of the Interior may in his discretion, from year to year, under such regulations as he may prescribe, authorize the Indians residing on any Indian reservation in the State of Minnesota, whether the same has been allotted in severalty or is still unallotted, to fell, cut, remove, sell or otherwise dispose of the dead timber, standing or fallen on such reservation or any part thereof, for the sole benefit of such Indians; and he may also in like manner authorize the Chippewa Indians of Minnesota who have any interest or right in the proceeds derived from the sales of ceded Indian lands or the timber growing thereon, whereof the fee is still in the United States, to fell, cut, remove, sell or otherwise dispose of the dead timber, standing or fallen, on such ceded land. But whenever there is reason to believe that such dead timber in either case has been killed, burned, girdled, or otherwise injured for the purpose of securing its sale under this Act, then in that case authority shall not be granted. (30 Stat. 90.)

These were provisions of section 1 of the Indian appropriation act for the fiscal year 1898, cited above.

§ 4124. (Act March 3, 1911, c. 210, § 1.) Fund for encouraging agricultural industry among Indians; conditions for repayments; disposition of repayments; report of use of fund.

There is hereby appropriated the sum of thirty thousand dollars, or so much thereof as may be necessary, to be immediately available, for the purpose of encouraging industry among Indians, and to aid them to engage in the culture of fruits, grains, and other crops. The said sum may be used for the purchase of animals, machinery, tools, implements, and other agricultural equipment: Provided, That the sum hereby appropriated shall be expended subject to the conditions to be prescribed by the Secretary of the Interior for its repayment to the United States, on or before June thirtieth, nineteen hundred and eighteen, and all repayments to this fund made on or before June thirtieth, nineteen hundred and seventeen are hereby appropriated for the same purpose as the original fund, and the entire fund, including such repayments, shall remain available until June thirtieth, nineteen hundred and seventeen, and all repayments to the fund hereby created which shall be made subsequent to June thirtieth, nineteen hundred and seventeen, shall be covered into the Treasury and shall not be withdrawn or applied except in consequence of a subsequent appropriation made by law: Provided further, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed report of the use of this fund. (36 Stat. 1061.)

These were provisions of the Indian appropriation act for the fiscal year 1912, cited above.

A subsequent appropriation of a larger amount for similar purposes, with provisions of the same nature as those of this act, was made by Act June 30, 1913, c. 4, § 1, post, § 4126.

(1646)
§ 4125. (Act June 30, 1913, c. 4, § 1.) Additional fund for encouraging agricultural industry among Indians; conditions for repayments; disposition of repayments; report of use of fund.

For the purpose of encouraging industry among the Indians and to aid them in the culture of fruits, grains, and other crops, $100,000, or so much thereof as may be necessary, to be immediately available, which sum may be used for the purchase of animals, machinery, tools, implements, and other equipment necessary to enable Indians to become self-supporting: Provided, That said sum shall be expended under conditions to be prescribed by the Secretary of the Interior for its repayment to the United States on or before June thirtieth, nineteen hundred and twenty-five, and all repayments to this fund made on or before June thirtieth, nineteen hundred and twenty-four, are hereby reappropriated for the same purpose as the original fund, and the entire fund, including such repayments, shall remain available until June thirtieth, nineteen hundred and twenty-four, and all repayments to the fund hereby created which shall be made subsequent to June thirtieth, nineteen hundred and twenty-four, shall be covered into the Treasury and shall not be withdrawn or applied except in consequence of a subsequent appropriation made by law: Provided further, That the Secretary of the Interior shall submit to Congress annually on the first Monday in December a detailed report of the use of this fund. (38 Stat. 80.)

These were provisions of the Indian appropriation act for the fiscal year 1914, cited above.

Previous similar provisions of Act March 3, 1911, c. 210, § 1, are set forth ante, § 4024.

§ 4126. (Act March 1, 1907, c. 2285.) Access to records of Five Civilized Tribes by Secretary of Interior.

The Secretary of the Interior, or his accredited representative, shall at all times have access to any books and records of the Choc-taw, Chickasaw, Cherokee, Creek, and Seminole tribes, whether in possession of any of the officers of either of said tribes or any officer or custodian thereof, of the future State of Oklahoma. (34 Stat. 1027.)

This was a provision of the Indian appropriation act for the fiscal year 1908, cited above.

CHAPTER FOUR

Government of Indian Country

Sec. 4127. Traders with Indians; appointment; regulation.
Sec. 4128. Persons who may be permitted to trade with Indians; regulation.
Sec. 4129. Prohibition of trade by the President.
Sec. 4130. Trading with Indians, etc., without license; penalty; employment by leaders of white persons as clerks; license and regulation.
Sec. 4131. Foreigners entering Indian country without passports; penalty.
Sec. 4132. Prohibited purchases and sales.
Sec. 4133. Sale of arms, etc., to Indians, prohibited.
Sec. 4134. Trading or selling arms, etc., in (1647)
Sec. 4135. Prohibition of hunting on Indian lands.
4136. Penalty for removing cattle from Indian country.
4137. Selling, etc., intoxicating drinks to Indians, or introducing intoxicating liquors into Indian country, punishable; imprisonment and fine; authority of War Department as defense.
4138. Officers, soldiers, etc., of Army furnishing liquors, etc., to Indians.
4139. Introducing and using wines, within Indian country, for sacramental purposes, not unlawful.
4140. Complaints for violations of provisions prohibiting sale, etc., to Indians, or introduction into Indian country, of intoxicating liquors; arrests and examinations.
4141. Searches for concealed liquors; powers of officers; seizure of and proceedings against liquors found, etc.
4142. Suppression of liquor traffic among Indians; powers of officers conferred also on special agent of Indian Bureau and his deputies.
4143. Suppression of liquor traffic among Indians; powers of marshals and deputy marshals conferred also on chief special officer and his deputies.
4144. Setting up distillery in Indian country.
4145. Assault.
4146. Arson.
4147. Laws defining, etc., forgery and depredations on mails, extended to Indian country.
4148. General laws as to punishment of crimes extended to Indian country.
4149. Exceptions to operation of preceding section.
4150. Removal of persons from Indian country.
4151. Return after removal; penalty.
4152. Removal from reservations.
4153. Employment of the military in apprehending persons violating the law, and for other purposes.
4154. Detention of persons apprehended by the military.
4155. Arrest of abscinding Indians guilty of crime.
4156. Employment by marshal of posse comitatus in executing process.
4157. Reparation for injuries to property of Indians.
4158. Payment where the offender is unable.
4159. Injuries to property by Indians.
4160. Agents, etc., authorised to take depositions, touching depredations.

(R. S. § 2127. Transferred to Chapter 3.)

This section provided for the sale, by the agent of each tribe of Indians, for their benefit, of cattle, horses, etc., belonging to them, and not required for their use, etc. It is placed, with other provisions for protection of the Indians, under Chapter 3 of this Title, ante, § 4120.

(R. S. §§ 2128–2131. Superseded.)

R. S. § 2129, provided that any loyal person, a citizen of the United States, of good moral character, should be permitted to trade with any Indian tribe upon giving bond, as prescribed and R. S. §§ 2129–2131 provided for the issue or refusal of licenses so to trade by superintendents of Indian affairs, Indian agents, or sub-agents, and for revocation of such licenses. They were superseded by provisions giving the Commissioner of Indian Affairs sole power to appoint such traders, and to make regulations governing the conduct of their business, of Act Aug. 15, 1876, c. 289, § 5, post, § 4127, and the provisions relating to their appointment, of Act March 3, 1901, c. 822, § 1, as amended by Act March 3, 1903, c. 994, § 10, post, § 4128.

§ 4127. (Act Aug. 15, 1876, c. 289, § 5.) Traders with Indians; appointment; regulation.

Hereafter the Commissioner of Indian Affairs shall have the sole power and authority to appoint Traders to the Indian tribes and to make such rules and regulations as he may deem just and proper.
§ 4128. (Act March 3, 1901, c. 832, § 1, as amended, Act March 3, 1903, c. 994, § 10.) Persons who may be permitted to trade with Indians; regulation.

That portion of the Act of Congress approved March third, nineteen hundred and one (Thirty-first Statutes, page one thousand and sixty-five), entitled "An Act making appropriations for the current and contingent expenses of the Indian Department and for fulfilling treaty stipulations with various Indian tribes for the fiscal year ending June thirtieth, nineteen hundred and two, and for other purposes," which reads as follows: "That on and after July first, nineteen hundred and one, any person desiring to trade with the Indians on said reservation shall, upon establishing the fact, to the satisfaction of the Commissioner of Indian Affairs, that he is a proper person to engage in such trade, be permitted to do so under such rules and regulations as the Commissioner of Indian Affairs may prescribe for the protection of said Indians," is hereby amended and extended so as to apply to all Indian reservations. (31 Stat. 1066. 32 Stat. 1009.)

The portion of Act March 3, 1901, § 1, first cited above, which is quoted in and amended by this section of Act March 3, 1903, c. 994, last cited above, was a proviso annexed to appropriations for and provisions relating to the Osages, and "said reservation," mentioned therein, was the Osage Indian reservation.

§ 4129. (R. S. § 2132.) Prohibition of trade by the President.

The President is authorized, whenever in his opinion the public interest may require the same, to prohibit the introduction of goods, or of any particular article, into the country belonging to any Indian tribe, and to direct all licenses to trade with such tribe to be revoked, and all applications therefor to be rejected. No trader to any other tribe shall, so long as such prohibition may continue, trade with any Indians of or for the tribe against which such prohibition is issued.

Act June 30, 1834, c. 161, § 3, 4 Stat. 729.

§ 4130. (R. S. § 2133, as amended, Act July 31, 1882, c. 360.) Trading with Indians, etc., without license; penalty; employment by traders of white persons as clerks; license and regulation.

Any person other than an Indian of the full blood who shall attempt to reside in the Indian country, or on any Indian reservation, as a trader, or to introduce goods, or to trade therein, without such license, shall forfeit all merchandise offered for sale to the Indians or found in his possession, and shall moreover be liable to a penalty of five hundred dollars: Provided, That this section shall not apply to any person residing among or trading with the Choctaws, Cherokees, Chickasaws, Creeks, or Seminoles, commonly called the

Comp. St. '13—104 (1649)
five civilized tribes, residing in said Indian country, and belonging to the Union Agency therein: And provided further, That no white person shall be employed as a clerk by any Indian trader, except such as trade with said five civilized tribes, unless first licensed so to do by the Commissioner of Indian Affairs, under and in conformity to regulations to be established by the Secretary of the Interior. (22 Stat. 179.)


This section, as originally enacted, contained only the provision set forth here preceding the proviso, without the words, "of the full blood," and the words "or on any Indian reservation." It was amended by inserting said words and adding the two provisos, to read as set forth here, by Act July 31, 1882, c. 380, last cited above.

§ 4131. (R. S. § 2134.) Foreigners entering Indian country without passports; penalty.

Every foreigner who shall go into the Indian country without a passport from the Department of the Interior, superintendent, agent, or sub-agent of Indian affairs, or officer of the United States commanding the nearest military post on the frontiers, or who shall remain intentionally therein after the expiration of such passport, shall be liable to a penalty of one thousand dollars. Every such passport shall express the object of such person, the time he is allowed to remain, and the route he is to travel.

Act June 30, 1884, c. 161, § 6, 4 Stat. 730.

§ 4132. (R. S. § 2135.) Prohibited purchases and sales.

Every person, other than an Indian, who, within the Indian country, purchases or receives of any Indian, in the way of barter, trade, or pledge, a gun, trap, or other article commonly used in hunting, any instrument of husbandry, or cooking utensils of the kind commonly obtained by the Indians in their intercourse with the white people, or any article of clothing, except skins or furs, shall be liable to a penalty of fifty dollars.


§ 4133. (R. S. § 467.) Sale of arms, etc., to Indians, prohibited.

The Secretary of the Interior shall adopt such rules as may be necessary to prohibit the sale of arms or ammunition within any district or country occupied by uncivilized or hostile Indians, and shall enforce the same.


Any trader, etc., selling arms or ammunition within any district or county occupied by uncivilized or hostile Indians, was to forfeit his right to trade with the Indians, and be excluded from such district or country, by R. S. § 2136, post, § 4134.

§ 4134. (R. S. § 2136.) Trading or selling arms, etc., in any district occupied by uncivilized or hostile Indians.

If any trader, his agent, or any person acting for or under him, shall sell any arms or ammunition at his trading-post or other place within any district or country occupied by uncivilized or hostile Indians, contrary to the rules and regulations of the Secretary of the Interior, such trader shall forfeit his right to trade with the (1650)
Indians, and the Secretary shall exclude such trader, and the agent, or other person so offending, from the district or country so occupied.


§ 4135. (R. S. § 2137.) Prohibition of hunting on Indian lands.

Every person, other than an Indian, who, within the limits of any tribe with whom the United States has existing treaties, hunts, or traps, or takes and destroys any peltries or game, except for subsistence in the Indian country, shall forfeit all the traps, guns, and ammunition in his possession, used or procured to be used for that purpose, and all peltries so taken; and shall be liable in addition to a penalty of five hundred dollars.

Act June 30, 1834, c. 161, § 8, 4 Stat. 750.

§ 4136. (R. S. § 2138.) Penalty for removing cattle from Indian country.

Every person who drives or removes, except by authority of an order lawfully issued by the Secretary of War, connected with the movement or subsistence of troops, any cattle, horses, or other stock from the Indian country for the purposes of trade or commerce, shall be punishable by imprisonment for not more than three years, or by a fine of not more than five thousand dollars, or both.


(R. S. § 2139. Superseded.)

This section, as enacted in the Revised Statutes, was as follows: "No ardent spirits shall be introduced, under any pretense, into the Indian country. Every person, except an Indian, in the Indian country, who sells, exchanges, gives, barter, or disposes of any spirituous liquors or wine to any Indian under the charge of any Indian superintendent or agent, or introduces or attempts to introduce any spirituous liquor or wine into the Indian country, shall be punishable by imprisonment for not more than two years, and by a fine of not more than three hundred dollars. But it shall be a sufficient defense to any charge of introducing or attempting to introduce liquor into the Indian country, that the acts charged were done by order of or under authority from the War Department, or any officer duly authorized thereunto by the War Department."

The words, near the beginning of the second sentence, "except an Indian, in the Indian country," were stricken out by amendment by Act Feb. 27, 1877, c. 69, § 1, 19 Stat. 244.

The section was further amended by Act July 23, 1892, c. 234, 27 Stat. 280, by changing its provisions, as then existing, to read, in part, as follows:

"No ardent spirits, ale, beer, wine, or intoxicating liquor or liquors of whatever kind shall be introduced, under any pretense, into the Indian country. Every person who sells, exchanges, gives, barter, or disposes of any ardent spirits, ale, beer, wine, or intoxicating liquors of any kind to any Indian under charge of any Indian superintendent or agent, or introduces or attempts to introduce any ardent spirits, ale, wine, beer, or intoxicating liquor of any kind into the Indian country shall be punished by imprisonment for not more than two years, and by fine of not more than three hundred dollars for each offense. But it shall be a sufficient defense to any charge of introducing or attempting to introduce ardent spirits, ale, beer, wine, or intoxicating liquors into the Indian country that the acts charged were done under authority in writing from

(1651)
§ 4137. (Tit. 28)

INDIANS

the War Department, or any officer duly authorized thereunto by the War Department."

The provisions of this portion of the section, as so amended, were superseded by those of Act Jan. 30, 1897, c. 109, § 1, post, § 4137.

Further provisions added at the end of the section by said amendment by Act July 27, 1892, c. 234, relating to complaints for arrest of persons for violation of said act, and to the arrest and examination of such persons, are set forth post, § 4140.

§ 4137. (Act Jan. 30, 1897, c. 109, § 1.) Selling, etc., intoxicating

drinks to Indians, or introducing intoxicating liquors into Indian country, punishable; imprisonment and fine; authority of War Department as defense.

Any person who shall sell, give away, dispose of, exchange, or barter any malt, spirituous, or vinous liquor including beer, ale, and wine, or any ardent or other intoxicating liquor of any kind whatsoever, or any essence, extract, bitters, preparation, compound, composition, or any article whatsoever, under any name, label, or brand, which produces intoxication, to any Indian to whom allotment of land has been made while the title to the same shall be held in trust by the Government, or to any Indian a ward of the Government under charge of any Indian superintendent or agent, or any Indian, including mixed bloods, over whom the Government, through its departments, exercises guardianship, and any person who shall introduce or attempt to introduce any malt, spirituous, or vinous liquor, including beer, ale, and wine, or any ardent or intoxicating liquor of any kind whatsoever into the Indian country, which term shall include any Indian allotment while the title to the same shall be held in trust by the Government, or while the same shall remain inalienable by the allottee without the consent of the United States, shall be punished by imprisonment for not less than sixty days, and by a fine of not less than one hundred dollars for the first offense and not less than two hundred dollars for each offense thereafter: Provided however, That the person convicted shall be committed until fine and costs are paid. But it shall be a sufficient defense to any charge of introducing or attempting to introduce ardent spirits, ale, beer, wine, or intoxicating liquors into the Indian country that the acts charged were done under authority, in writing, from the War Department or any officer duly authorized thereunto by the War Department. (29 Stat. 506.)

This was an act entitled "An act to prohibit the sale of intoxicating drinks to Indians, providing penalties therefor, and for other purposes."

This act superseded provisions relating to the same subject of R. S. § 2138, as amended by Act Feb. 27, 1877, c. 69, § 1, 19 Stat. 244, and further amended by Act July 23, 1892, c. 234, 27 Stat. 280; and section 2 of this act repealed so much of said Act July 23, 1892, c. 234, as was inconsistent with the provisions of this act.

Provisions added to R. S. § 2139, by amendment by said Act July 23, 1892, c. 234, not inconsistent with the provisions of this act, are set forth post, § 4140.

A provision that no part of R. S. §§ 2139, 2140, should be a bar to the prosecution of any officer, soldier, etc., of the Army who should furnish liquors, etc., to any Indian, which may be regarded as applicable to the provi-(1652).
§ 4140

Complaints for violations of provisions prohibiting sale, etc., to Indians, or introduction into Indian country, of intoxicating liquors; arrests and examinations.

All complaints for the arrest of any person or persons made for violation of any of the provisions of this act shall be made in the county where the offense shall have been committed, or if committed upon or within any reservation not included in any county, then in any county adjoining such reservation; but in all cases such arrests shall be made before any United States court commissioner residing in such adjoining county, or before any magistrate or judicial officer authorized by the laws of the State in which such reservation is located to issue warrants for the arrest and examination of offenders by section ten hundred and fourteen of the Revised Statutes of the United States. And all persons so arrested shall, unless discharged upon examination, be held to an-
swear and stand trial before the court of the United States having jurisdiction of the offense. (27 Stat. 261.)

These were provisions added to R. S. § 2139, as part of the amendments of that section made by Act July 23, 1882, c. 234, cited above.

The preceding provisions of said section 2139, as amended by this act, were superseded by those of Act Jan. 30, 1897, c. 109, § 1, ante, § 4137, and so much of this act as was inconsistent with those of said Act Jan. 30, 1897, c. 109, were repealed by section 2 thereof. See notes to said section 1, ante, § 4137.

The portion of this section omitted here related to arrests in the Indian Territory. It was superseded by the admission of that Territory and the Territory of Oklahoma into the Union as the State of Oklahoma, pursuant to Act June 16, 1906, c. 3335, 34 Stat. 267.

R. S. § 1014, mentioned in these provisions, is set forth ante, § 1674.

§ 4141. (R. S. § 2140.) Searches for concealed liquors; powers of officers; seizure of and proceedings against liquors found, etc.

If any [superintendent of Indian affairs,] Indian agent, or sub-agent, or commanding officer of a military post, has reason to suspect or is informed that any white person or Indian is about to introduce or has introduced any spirituous liquor or wine into the Indian country in violation of law, such superintendent, agent, sub-agent, or commanding officer, may cause the boats, stores, packages, wagons, sleds, and places of deposit of such person to be searched; and if any such liquor is found therein, the same, together with the boats, teams, wagons, and sleds used in conveying the same, and also the goods, packages, and peltries of such person, shall be seized and delivered to the proper officer, and shall be proceeded against by libel in the proper court, and forfeited, one-half to the informer and the other half to the use of the United States; and if such person be a trader, his license shall be revoked and his bond put in suit. It shall moreover be the duty of any person in the service of the United States, or of any Indian, to take and destroy any ardent spirits or wine found in the Indian country, except such as may be introduced therein by the War Department. In all cases arising under this and the preceding section Indians shall be competent witnesses.


Act July 23, 1892, c. 234, by its title purporting to amend this section and R. S. § 2141, besides R. S. § 2139, but its provisions amended R. S. § 2139 only.

The words of this section, "superintendent of Indian affairs," inclosed in brackets, have become inoperative; no appropriations for such superintendents having been made since 1877. See note to R. S. § 2045, ante, § 3989.

The powers conferred by this section on the officers named therein were conferred also on the special agent of the Indian Bureau for suppression of the liquor traffic among Indians, etc., and his deputies, by a provision of Act March 1, 1907, c. 2285, post, § 4142.

§ 4142. (Act March 1, 1907, c. 2285.) Suppression of liquor traffic among Indians; powers of officers conferred also on special agent of Indian Bureau and his deputies.

The powers conferred by section twenty-one hundred and forty of the Revised Statutes upon Indian agents, and subagents, and commanding officers of military posts are hereby conferred upon the special agent of the Indian Bureau for the suppression of the (1634)
liquor traffic among Indians and in the Indian country and duly authorized deputies working under his supervision. (34 Stat. 1017.)

This was a provision of the Indian appropriation act for the fiscal year 1916, cited above.

R. S. § 2140, mentioned in this provision, is set forth ante, § 4141.

The powers of sheriffs and their deputies, in each State, conferred on marshals and their deputies, were conferred also on the chief special officer for suppression of the liquor traffic among Indians and his deputies, by a provision of Act Aug. 24, 1912, c. 588, § 1, post, § 4143.

§ 4143. (Act Aug. 24, 1912, c. 388, § 1.) Suppression of liquor traffic among Indians; powers of marshals and deputy marshals conferred also on chief special officer and his deputies.

The powers conferred by section seven hundred and eighty-eight of the Revised Statutes upon marshals and their deputies are hereby conferred upon the chief special officer for the suppression of the liquor traffic among Indians and duly authorized officers working under his supervision whose appointments are made or affirmed by the Commissioner of Indian Affairs or the Secretary of the Interior. (37 Stat. 519.)

This was a further proviso annexed to an appropriation for suppression of the traffic in intoxicating liquors among Indians, in the Indian appropriation act for the fiscal year 1913, cited above.

R. S. § 788, mentioned in this provision, giving marshals and their deputies the powers of sheriffs and their deputies, in each State, is set forth ante, § 1312.

§ 4144. (R. S. § 2141.) Setting up distillery in Indian country.

Every person who shall, within the Indian country, set up or continue any distillery for manufacturing ardent spirits, shall be liable to a penalty of one thousand dollars; and the [superintendent of Indian affairs,] Indian agent, or subagent, within the limits of whose agency any distillery of ardent spirits is set up or continued, shall forthwith destroy and break up the same.


The words of this section, "superintendent of Indian affairs," enclosed in brackets, have become inoperative, no appropriations for such superintendents having been made since 1877. See note to R. S. § 2046, ante, § 3808.

§ 4145. (R. S. § 2142.) Assault.

Every white person who shall make an assault upon an Indian, or other person, and every Indian who shall make an assault upon a white person, within the Indian country, with a gun, rifle, sword, pistol, knife, or any other deadly weapon, with intent to kill or maim the person so assaulted, shall be punishable by imprisonment, at hard labor, for not more than five years, nor less than one year.

Act March 27, 1854, c. 28, § 5, 10 Stat. 270.

Indians committing any of seven crimes specified including assault with intent to kill, within any Territory, were made subject to the laws of such Territory relating to said crimes, and those committing any of said crimes within the boundaries of a State and within the limits of an Indian reservation were made subject to the same laws as persons committing any of said crimes within the exclusive jurisdiction of the United States, by the Seven Crimes Act, Act March 3, 1885, c. 341, § 9, 25 Stat. 388, which was incorporated into the Criminal Code, in section 328 thereof, post, § 10602, and was repealed by section 841 thereof, post, § 10515.

(1665)
§ 4146. (R. S. § 2143.) Arson.

Every white person who shall set fire, or attempt to set fire, to any house, out-house, cabin, stable, or other building, in the Indian country, to whomsoever belonging; and every Indian who shall set fire to any house, out-house, cabin, stable, or other building, in the Indian country, in whole or in part belonging to or in lawful possession of a white person, and whether the same be consumed or not, shall be punishable by imprisonment at hard labor for not more than twenty-one years, nor less than two years.

Act March 27, 1854, c. 26, § 4, 10 Stat. 270.

Arson was one of the crimes specified in the Seven Crimes Act, making Indians committing any of said crimes if within a Territory, subject to the laws of the Territory, and if within an Indian reservation in any State, subject to the laws of the United States. See note to R. S. § 2142, ante, § 4145.

§ 4147. (R. S. § 2144.) Laws defining, etc., forgery and depredations on mails, extended to Indian country.

The general laws of the United States defining and prescribing punishments for forgery and for depredations upon the mails, shall extend to the Indian country.

Act March 8, 1855, c. 204, § 8, 10 Stat. 700.

§ 4148. (R. S. § 2145.) General laws as to punishment of crimes extended to Indian country.

Except as to crimes the punishment of which is expressly provided for in this Title, the general laws of the United States as to the punishment of crimes committed in any place within the sole and exclusive jurisdiction of the United States, except the District of Columbia, shall extend to the Indian country.


§ 4149. (R. S. § 2146, as amended, Act Feb. 18, 1875, c. 80, § 1.) Exceptions to operation of preceding section.

The preceding section shall not be construed to extend to crimes committed by one Indian against the person or property of another Indian, nor to any Indian committing any offense in the Indian country who has been punished by the local law of the tribe, or to any case where, by treaty stipulations, the exclusive jurisdiction over such offenses is or may be secured to the Indian tribes respectively.

Act March 27, 1854, c. 26, § 3, 10 Stat. 270. Act Feb. 18, 1875, c. 80, § 1, 18 Stat. 318.

This section, as enacted in the Revised Statutes, did not contain the words "crimes committed by one Indian against the person or property of another Indian, nor to." Said words were inserted by amendment, making the section read as set forth here, by Act Feb. 18, 1875, c. 80, § 1, last cited above.

Indians committing any of seven crimes specified, if committed within a Territory, were made subject to the laws of the Territory, and if committed within an Indian reservation in any State, were made subject to the same laws as persons committing any of said crimes within the exclusive jurisdiction of the United States, by the Seven Crimes Act, Act March 3, 1885, c. 341, § 9, 23 Stat. 385, which was incorporated into the Criminal Code, in section 328 thereof, post, § 10602, and was repealed by section 341 thereof, post, § 10015.

(1656)
§ 4150. (R. S. § 2147.) Removal of persons from Indian country.
   The [superintendent of Indian affairs, and the] Indian agents
   and sub-agents, shall have authority to remove from the Indian
   country all persons found therein contrary to law; and the Presi-
   dent is authorized to direct the military force to be employed in
   such removal.

   Act June 30, 1834, c. 161, § 10, 4 Stat. 730.
   The words of this section, "superintendent of Indian Affairs, and the," in-
   closed in brackets, have become inoperative; no appropriations for such su-
   perintendents having been made since 1877. See note to R. S. § 2045, ante,
   § 889.

§ 4151. (R. S. § 2148.) Return after removal; penalty.
   If any person who has been removed from the Indian country
   shall thereafter at any time return or be found within the Indian
   country, he shall be liable to a penalty of one thousand dollars.


§ 4152. (R. S. § 2149.) Removal from reservations.
   The Commissioner of Indian Affairs is authorized and required,
   with the approval of the Secretary of the Interior, to remove from
   any tribal reservation any person being therein without authority
   of law, or whose presence within the limits of the reservation may,
   in the judgment of the Commissioner, be detrimental to the peace
   and welfare of the Indians; and may employ for the purpose such
   force as may be necessary to enable the agent to effect the removal
   of such person.

   Act June 12, 1858, c. 155, § 2, 11 Stat. 332.

§ 4153. (R. S. § 2150.) Employment of the military in apprehend-
   ing persons violating the law, and for other purposes.
   The military forces of the United States may be employed in
   such manner and under such regulations as the President may di-
   rect—
   First. In the apprehension of every person who may be in the
   Indian country in violation of law; and in conveying him immedi-
   ately from the Indian country, by the nearest convenient and safe
   route, to the civil authority of the Territory or judicial district in
   which such person shall be found, to be proceeded against in due
   course of law;
   Second. In the examination and seizure of stores, packages, and
   boats, authorized by law;
   Third. In preventing the introduction of persons and property
   into the Indian country contrary to law; which persons and prop-
   erty shall be proceeded against according to law;
   Fourth. And also in destroying and breaking up any distillery
   for manufacturing ardent spirits set up or continued within the In-
   dian country.


§ 4154. (R. S. § 2151.) Detention of persons apprehended by the
   military.
   No person apprehended by military force under the preceding
   section shall be detained longer than five days after arrest and be-
   (1657)
fore removal. All officers and soldiers who may have any such person in custody shall treat him with all the humanity which the circumstances will permit.

Act June 30, 1834, c. 161, § 23, 4 Stat. 783.

§ 4155. (R. S. § 2152.) Arrest of abandonding Indians guilty of crime.

The [superintendents,] agents, and sub-agents shall endeavor to procure the arrest and trial of all Indians accused of committing any crime, offense, or misdemeanor, and of all other persons who may have committed crimes or offenses within any State or Territory, and have fled into the Indian country, either by demanding the same of the chiefs of the proper tribe, or by such other means as the President may authorize. The President may direct the military force of the United States to be employed in the apprehension of such Indians, and also in preventing or terminating hostilities between any of the Indian tribes.

Act June 30, 1834, c. 161, § 19, 4 Stat. 782.
The word "superintendents," inclosed in brackets in this section, has become inoperative; no appropriations for such superintendents having been made since 1877. See note to R. S. § 2045, ante, § 3989.

§ 4156. (R. S. § 2153.) Employment by marshals of posse comitatus in executing process.

In executing process in the Indian country, the marshal may employ a posse comitatus, not exceeding three persons in any of the States respectively, to assist in executing process by arresting and bringing in prisoners from the Indian country, and allow them three dollars for each day in lieu of all expenses and services.

Act June 14, 1858, c. 163, § 3, 11 Stat. 363.

§ 4157. (R. S. § 2154.) Reparation for injuries to property of Indians.

Whenever, in the commission, by a white person, of any crime, offense, or misdemeanor, within the Indian country, the property of any friendly Indian is taken, injured, or destroyed, and a conviction is had for such crime, offense, or misdemeanor, the person so convicted shall be sentenced to pay to such friendly Indian to whom the property may belong, or whose person may be injured, a sum equal to twice the just value of the property so taken, injured, or destroyed.

Act June 30, 1834, c. 161, § 16, 4 Stat. 731.

§ 4158. (R. S. § 2155.) Payment where the offender is unable.

If such offender shall be unable to pay a sum at least equal to the just value or amount, whatever such payment shall fall short of the same shall be paid out of the Treasury of the United States. If such offender cannot be apprehended and brought to trial, the amount of such property shall be paid out of the Treasury. But no Indian shall be entitled to any payment out of the Treasury of the United States, for any such property, if he, or any of the na- (1858)
tion to which he belongs, have sought private revenge, or have attempted to obtain satisfaction by any force or violence.

Act June 30, 1884, c. 161, § 16, 4 Stat. 731.

§ 4159. (R. S. § 2156.) Injuries to property by Indians.

If any Indian, belonging to any tribe in amity with the United States, shall, within the Indian country, take or destroy the property of any person lawfully within such country, or shall pass from Indian country into any State or Territory inhabited by citizens of the United States, and there take, steal, or destroy, any horse, or other property belonging to any citizen or inhabitant of the United States, such citizen or inhabitant, his representative, attorney, or agent, may make application to the proper [superintendent] agent, or sub-agent, who, upon being furnished with the necessary documents and proofs, shall, under the direction of the President, make application to the nation or tribe to which such Indian shall belong, for satisfaction; and if such nation or tribe shall neglect or refuse to make satisfaction, in a reasonable time not exceeding twelve months, such [superintendent] agent, or sub-agent shall make return of his doings to the Commissioner of Indian Affairs, that such further steps may be taken as shall be proper, in the opinion of the President, to obtain satisfaction for the injury.


§ 4160. (R. S. § 2157.) Agents, etc., authorized to take depositions touching depredations.

The superintendents, agents, and sub-agents within their respective districts are authorized and empowered to take depositions of witnesses touching any depredations, within the purview of the three preceding sections, and to administer oaths to the deponents.


CHAPTER FOUR A

Education of Indians

This chapter, inserted here as additional to the original chapters of Title XXVIII of the Revised Statutes, includes the provisions of section 2071 of the Revised Statutes, and of subsequent acts, general and permanent in their nature, and remaining in force, relating to education of Indians, particularly children, by schools and other means of instruction.

Sec. 4161. Employment of persons to instruct Indians in agriculture, and to teach their children, etc.; reports to Congress.

Sec. 4162. Detail of officer of Army for Indian education.

Sec. 4163. Vacant military posts or barracks for normal and industrial training-schools; detail of officers of Army to such schools; places of expenditure of appropriations.

Sec. 4164. Census of Indians at agency or reservation, and numbers of school children, school-houses, schools, etc., to be reported annually.

(1859)
§ 4161. (R. S. § 2071.) Employment of persons to instruct Indians in agriculture, and to teach their children, etc.; reports to Congress.

The President may, in every case where he shall judge improvement in the habits and condition of such Indians practicable, and that the means of instruction can be introduced with their own consent, employ capable persons of good moral character to instruct them in the mode of agriculture suited to their situation; and for teaching their children in reading, writing, and arithmetic, and performing such other duties as may be enjoined according to such instructions and rules as the President may give and prescribe for the regulation of their conduct, in the discharge of their duties. A report of the proceedings adopted in the execution of this provision shall be annually laid before Congress.

Act March 3, 1819, c. 85, 3 Stat. 516.

The nature and effects of alcoholic drinks and narcotics on the human system were required to be studied in the Indian schools, by Act May 20, 1886, c. 362, post, §§ 9379-9381.

(R. S. § 2099. Superseded.)

This section provided that moneys appropriated for purposes of education among the Indian tribes should not be expended elsewhere than in Indian country, excepting certain expenditures authorized by treaty to be under direction either of the President or of the Indian tribes. Its provisions were superseded by a proviso annexed to Act July 31, 1882, c. 363, post, § 4163, that moneys appropriated for general purposes of education among the Indians might be expended for education of Indian youth at such posts, institutions, and schools as the Secretary of the Interior might consider advantageous, or as Congress from time to time might authorize and provide.

Subsequent appropriations provide for schools, etc., for Indian children "elsewhere than in Indian country."

(1860)
§ 4162. (Act June 23, 1879, c. 35, § 7.) Detail of officer of Army for Indian education.

The Secretary of War shall be authorized to detail an officer of the Army, not above the rank of captain, for special duty with reference to Indian education. (21 Stat. 35.)

This section was part of the legislative, executive, and judicial appropriation act for the fiscal year 1880, cited above.

Subsequent provisions for detail of officers of the Army to certain schools were made by Act July 31, 1882, c. 863, post, § 4163.

§ 4163. (Act July 31, 1882, c. 363.) Vacant military posts or barracks for normal and industrial training-schools; detail of officers of Army to such schools; places of expenditure of appropriations.

That the Secretary of War be, and he is hereby, authorized to set aside, for use in the establishment of normal and industrial training-schools for Indian youth from the nomadic tribes having educational treaty claims upon the United States, any vacant posts or barracks, so long as they may not be required for military occupation, and to detail one or more officers of the Army for duty in connection with Indian education, under the direction of the Secretary of the Interior, at each such school so established: Provided, That moneys appropriated or to be appropriated for general purposes of education among the Indians may be expended, under the direction of the Secretary of the Interior, for the education of Indian youth at such posts, institutions, and schools as he may consider advantageous, or as Congress from time to time may authorize and provide. (22 Stat. 181.)

This was an act entitled "An act to provide additional industrial training-schools for Indian youth, and authorizing the use of unoccupied military barracks for such purposes." The proviso to this section superseded R. S. § 2060.

§ 4164. (Act July 4, 1884, c. 180, § 9.) Census of Indians at agency or reservation, and numbers of school children, schoolhouses, schools, etc., to be reported annually.

That hereafter each Indian agent be required, in his annual report, to submit a census of the Indians at his agency or upon the reservation under his charge, the number of males above eighteen years of age, the number of females above fourteen years of age, the number of school children between the ages of six and sixteen years, the number of school-houses at his agency, the number of schools in operation and the attendance at each, and the names of teachers employed and salaries paid such teachers. (23 Stat. 98.)

This section was part of the Indian appropriation act for the fiscal year 1885, cited above.

§ 4165. (Act June 7, 1897, c. 3, § 1.) No appropriation to be made for any sectarian school.

It is hereby declared to be the settled policy of the Government to hereafter make no appropriation whatever for education in any sectarian school: * * * Provided further, That the foregoing shall not apply to public schools of any State, Territory, county, or

(1661)
§ 4165

INDIANS

(Tit. 28

City, or to schools herein or hereafter specifically provided for. (30 Stat. 79.)

These were provisions of the Indian appropriation act for the fiscal year 1888, cited above.

The portion of the act omitted here was a proviso authorizing the Secretary of the Interior to make contracts with schools of various denominations for the education of Indian pupils during the fiscal year 1888, but only at places where nonsectarian schools could not be provided, and was temporary merely.

A previous provision of Act June 29, 1888, c. 508, § 10, 25 Stat. 239, that at certain schools, at which "church organizations are assisting in the educational work, the Christian Bible may be taught in the native language of the Indians," etc., may be regarded as superseded by a provision that the Government should, as early as practicable, make provision for the education of Indian children in Government schools, made by Act March 2, 1895, c. 188, § 1, 28 Stat. 904, and by the provisions of this act.

Similar provisions were made by the Indian appropriation act for the preceding year, Act June 10, 1896, c. 888, § 1, 29 Stat. 345.

§ 4166. (Act June 21, 1906, c. 3504.) Rations to mission schools for children enrolled in them.

Mission schools on an Indian reservation may, under rules and regulations prescribed by the Commissioner of Indian Affairs, receive for such Indian children duly enrolled therein, the rations of food and clothing to which said children would be entitled under treaty stipulations if such children were living with their parents. (34 Stat. 326.)

This was a provision of the Indian appropriation act for the fiscal year 1907, cited above.

§ 4167. (Act March 2, 1889, c. 412, § 10.) Superintendent of Indian schools; appointment; qualifications; duties.

There shall be appointed by the President, by and with the advice and consent of the Senate, a person of knowledge and experience in the management, training, and practical education of children, to be Superintendent of Indian Schools, whose duty it shall be to visit and inspect the schools in which Indians are taught in whole or in part from appropriations from the United States Treasury, and report to the Commissioner of Indian Affairs, what, in his judgment, are the defects, if any, in any of them, in system, in administration, or in means for the most effective advancement of the pupils therein toward civilization and self-support, and what changes are needed to remedy such defects as may exist, and to perform such other duties in connection with Indian schools as may be prescribed by the Secretary of the Interior. (25 Stat. 1003.)

This section was part of the Indian appropriation act for the fiscal year 1860, cited above.

A further provision of this section repealed a provision of the similar act for the preceding year for the appointment of a superintendent of Indian schools, Act June 29, 1888, c. 508, § 8, 25 Stat. 239.

Subsequent Indian appropriation acts made appropriations annually for pay of the superintendent of Indian schools and for his traveling and other expenses, accompanied from year to year by a proviso that he should perform

(1662)
§ 4168. (Act June 7, 1897, c. 3, § 1.) Employment of Indian girls and boys as assistants in schools.

Hereafter the Commissioner of Indian Affairs shall employ Indian girls as assistant matrons and Indian boys as farmers and industrial teachers in all Indian schools when it is practicable to do so. (30 Stat. 83.)

This was a provision of the Indian appropriation act for the fiscal year 1898, cited above.

Provisions to the same effect were made in the similar appropriation acts for previous years.

§ 4169. (Act Aug. 24, 1912, c. 388, § 1.) Leaves of absence to employés at Indian schools, for attendance at educational gatherings, etc.

Hereafter employees of Indian schools may be allowed, in addition to annual leave, educational leave not to exceed fifteen days per calendar year for attendance at educational gatherings, conventions, institutions, or training schools, if the interests of the service require, and under such regulations as the Secretary of the Interior may prescribe, and no additional salary or expense on account of this leave of absence shall be incurred. (37 Stat. 519.)

This was a proviso annexed to the appropriation for Indian schools, etc., in the Indian appropriation act for the fiscal year 1913, cited above.

§ 4170. (Act April 30, 1908, c. 153, § 1.) Expenditure of appropriations for school purposes; supervision and regulation; limitation per capita.

All expenditure of money herein or hereafter appropriated for school purposes among the Indians, shall be at all times under the supervision and direction of the Commissioner of Indian Affairs, and in all respects in conformity with such conditions, rules, and regulations as to the conduct and methods of instruction and expenditure of money as may be from time to time prescribed by him, subject to the supervision of the Secretary of the Interior: Provided, That, except for pay of superintendents, not more than one hundred and sixty-seven dollars shall be expended for the annual support and education of any one pupil in any school herein specifically provided for, except when, by reason of epidemic, accident, or other sufficient cause, the attendance is so reduced or cost of maintenance so high that a larger expenditure is absolutely necessary, when the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, may allow a larger per capita expenditure: Provided further, That the total amount appropriated for the support of such school shall not be exceeded: Provided further, That the number of pupils in any school entitled to the per capita allowance hereby provided for
§ 4170 INDIANS (Tit. 28)

shall be determined by taking the average enrollment for the entire fiscal year and not any fractional part thereof. (35 Stat. 72.)

These were provisions of the Indian appropriation act for the fiscal year 1900, cited above.

Similar provisions were made by the Indian appropriation acts for previous years, applicable to the appropriations by each particular act.

Subsequent Indian appropriation acts provide that "all moneys appropriated herein for school purposes among the Indians may be expended, without restriction as to per capita expenditure, for the annual support and education of any one pupil in any school." The provision for the fiscal year 1914 was by Act June 30, 1913, c. 4, § 1, 38 Stat. 79.

The recent appropriations for Indian schools, etc., are accompanied by a proviso restricting the expenditure thereof to educate children of less than one-fourth Indian blood. The provision for the fiscal year 1914, by Act June 30, 1913, c. 4, § 1, 38 Stat. 78, was as follows:

"No part of this appropriation, or any other appropriation provided for herein, except appropriations made pursuant to treaties, shall be used to educate children of less than one-fourth Indian blood whose parents are citizens of the United States and the State wherein they live and where there are adequate free school facilities provided and the facilities of the Indian schools are needed for pupils of more than one-fourth Indian blood."

Previous provisions for admitting white children to Indian schools, on payment for tuition, made by Act March 1, 1907, c. 2285, and Act March 3, 1909, c. 263, are set forth post, §§ 4179, 4180.

Recent Indian appropriation acts also make separate appropriations for collection and transportation of pupils to and from Indian schools, etc., with a proviso that a specified part of the amount so appropriated may be used in placing Indian youths in employment in industrial pursuits. The provision for the fiscal year 1914, by Act June 30, 1913, c. 4, § 1, 38 Stat. 79, was as follows:

"For collection and transportation of pupils to and from Indian schools, and for the transportation of Indian pupils from any and all Indian schools and placing them, with the consent of their parents, under the care and control of white families qualified to give such pupils moral, industrial, and educational training, $82,000: Provided, That not to exceed $5,000 of this amount may be used in the transportation and placing of Indian youths in positions where a remunerative employment may be found for them in industrial pursuits. The provisions of this section shall also apply to native pupils of school age under twenty-one years of age brought from Alaska."

§ 4171. (Act April 21, 1904, c. 1402, § 1.) Suspension or discontinuance of schools; sale of buildings and plants; disposition of proceeds.

The Commissioner of Indian Affairs, may, when in his judgment the good of the service will be promoted thereby, suspend or discontinue any reservation Indian school, and, with the approval of the Secretary of the Interior, may sell any reservation school building or plant, that is no longer desirable as an Indian school upon any reservation and invest the proceeds in other school buildings and plants, as the needs of the service may demand, under such rules and regulations as he may, with the approval of the Secretary of the Interior, prescribe. (33 Stat. 211.)

This was a proviso annexed to the appropriation for Indian schools, etc., in the Indian appropriation act for the fiscal year 1905, cited above.

The removal of Government property at any Indian reservation or school, not required for use to other reservations or schools, was authorised by a provision of Act March 1, 1907, c. 2285, ante, § 4129.

(1664)
§ 4172. (Act Aug. 15, 1894, c. 290, § 1.) Children of Indians taking lands in severalty not excluded.

Hereafter in the expenditure of money appropriated for any of the purposes of education of Indian children, those children of Indians who have taken or may hereafter take lands in severalty under any existing law shall not, by reason thereof, be excluded from the benefits of such appropriation. (28 Stat. 311.)

This was a provision of the Indian appropriation act for the fiscal year 1895, cited above.

Similar provisions were made by the Indian appropriation acts for previous years.

§ 4173. (Act July 13, 1892, c. 164, § 1.) Regulations to secure attendance of children at school.

Hereafter the Commissioner of Indian Affairs, subject to the direction of the Secretary of the Interior, is hereby authorized and directed to make and enforce by proper means such rules and regulations as will secure the attendance of Indian children of suitable age and health at schools established and maintained for their benefit. (27 Stat. 143.)

This was a provision of the Indian appropriation act for the fiscal year 1893, cited above.

§ 4174. (Act March 3, 1893, c. 209, § 1.) Rations, etc., may be withheld for children not attending school.

The Secretary of the Interior may in his discretion, establish such regulations as will prevent the issuing of rations or the furnishing of subsistence either in money or in kind to the head of any Indian family for on account of any Indian child or children between the ages of eight and twenty-one years who shall not have attended school during the preceding year in accordance with such regulations. This provision shall not apply to reservations or part of reservations where sufficient school facilities have not been furnished nor until full notice of such regulations shall have been given to the Indians to be affected thereby.

The amount and value of subsistence so withheld shall be credited to the tribe or tribes from whom the same is withheld, to be issued and paid when in the judgment of the Secretary of the Interior they shall have fully complied with such regulations. (27 Stat. 628.)

These were provisions of the Indian appropriation act for the fiscal year 1894, cited above.

Further provisions of this act, for withholding rations, etc., from parents for non-attendance of their children at school, are set forth post, § 4175.

A special provision for withholding annuities or other payments due to Osage Indian minors, whose parents fail to place them in school, was made by Act June 30, 1918, c. 4, § 18, post, § 4176.

§ 4175. (Act March 3, 1893, c. 209, § 1.) Rations, etc., may be withheld from parents, etc., for nonattendance of children at school.

Hereafter the Secretary of the Interior may in his discretion withhold rations, clothing and other annuities from Indian par-
§ 4175. INDIANS (Tit. 28)

ents or guardians who refuse or neglect to send and keep their children of proper school age in some school a reasonable portion of the year. (27 Stat. 635.)

This was a further provision of the Indian appropriation act for the fiscal year 1894, cited above.

See notes to preceding provisions of this act, ante, § 4174.

§ 4176. (Act June 30, 1913, c. 4, § 18.) Annuities, etc., may be withheld from Osage Indians for nonattendance of children at school.

Hereafter the Commissioner of Indian Affairs is authorized in his discretion to withhold any annuities or other payments due to Osage Indian minors, above six years of age, whose parents fail, neglect, or refuse to place such minors in some established school for a reasonable portion of each year and to keep such children in regular attendance thereof. The Commissioner of Indian Affairs is authorized to make such rules and regulations as may be necessary to put this provision into force and effect. (38 Stat. 96.)

These were provisions of the Indian appropriation act for the fiscal year 1914, cited above.

Previous general provisions of the same nature, of Act March 3, c. 209, § 1, are set forth ante, §§ 4174, 4175.

§ 4177. (Act Aug. 15, 1894, c. 290, § 11.) Child not to be sent to school out of State without consent of parents, etc.

No Indian child shall be sent from any Indian reservation to a school beyond the State or Territory in which said reservation is situated without the voluntary consent of the father or mother of such child if either of them are living, and if neither of them are living without the voluntary consent of the next of kin of such child. Such consent shall be made before the agent of the reservation, and he shall send to the Commissioner of Indian Affairs his certificate that such consent has been voluntarily given before such child shall be removed from such reservation. And it shall be unlawful for any Indian agent or other employé of the Government to induce, or seek to induce, by withholding rations or by other improper means, the parents or next of kin of any Indian to consent to the removal of any Indian child beyond the limits of any reservation. (28 Stat. 314.)

This section was part of the Indian appropriation act for the fiscal year 1895, cited above.

A subsequent provision that no Indian child should be taken to a school in another State against its will or without the written consent of its parents, was made by Act June 10, 1896, c. 398, § 1, post, § 4178.

§ 4178. (Act June 10, 1896, c. 398, § 1.) Child not to be taken to school in another State against its will or without consent of parents.

Hereafter no Indian child shall be taken from any school in any State or Territory to a school in any other State against its will or without the written consent of its parents. (29 Stat. 348.)

This was a proviso annexed to appropriations for Indian schools in the Indian appropriation act for the fiscal year 1897, cited above.

(1668)
§ 4179. (Act March 1, 1907, c. 2285.) Admission of white children to Indian day schools; tuition fees, and disposition thereof.

Hereafter white children may, under rules and regulations prescribed by the Commissioner of Indian Affairs, be admitted to any Indian day school: Provided, That the tuition fees charged for such children shall in no case exceed the tuition fees allowed or charged by the State or county in which such school is situated for the children admitted in the common schools of such State or county: And provided further, That all tuition fees paid for white children enrolled in Indian day schools shall be deposited in the United States Treasury to reimburse the funds out of which the schools last mentioned are maintained. (34 Stat. 1018.)

These were provisions of the Indian appropriation act for the fiscal year 1908, cited above.

Subsequent provisions for admission of white children to Indian boarding schools were made by Act March 3, 1909, c. 263, post, § 4180.

§ 4180. (Act March 3, 1909, c. 263.) Admission of white children to Indian boarding schools; tuition fees, and disposition thereof.

Hereafter white children may, under rules prescribed by the Commissioner of Indian Affairs, be admitted to Indian boarding schools on the payment of tuition fees at a rate to be fixed in said rules: Provided further, That all tuition fees paid for white children so enrolled shall be deposited in the United States Treasury to reimburse the fund out of which the school is supported. (35 Stat. 783.)

These were provisions annexed to the appropriation for collection and transportation of pupils to and from Indian schools in the Indian appropriation act for the fiscal year 1910, cited above.

Previous provisions for admission of white children to Indian day schools were made by Act March 1, 1907, c. 2285, ante, § 4179.

CHAPTER FOUR B
Rights of Way Through Indian Lands

This chapter, inserted here as additional to the original chapters of Title XXVIII of the Revised Statutes, includes the provisions, subsequent to the Revision, and general in their nature, for grants of rights of way for railroad, telegraph, and telephone lines and purposes incident thereto, for pipe lines, and for public highways, consisting mainly of provisions of Act March 2, 1899, c. 374, 30 Stat. 990, and later acts amendatory thereof or additional thereto, remaining in force and applicable to Indian reservations, lands, and allotments.

Sec. 4181. Rights of way through Indian reservations, etc., for railway, telegraph and telephone lines; town site stations.

Sec. 4184. Time for completion of road; forfeiture of rights granted.

Sec. 4182. Width of right of way; grounds for stations, etc.

Sec. 4185. Payments by railroads in Indian Territory for benefit of Indians; transportation rates; transportation of mails.

Sec. 4183. Survey; maps; compensation for right of way.

Sec. 4186. Application of Act March 3, 1875, c. 152, § 2.

(1867)
§ 4181. (Act March 2, 1899, c. 374, § 1, as amended, Act June 25, 1910, c. 431, § 16.) Rights of way through Indian reservations, etc., for railroad, telegraph and telephone lines; town site stations.

A right of way for a railway, telegraph and telephone line through any Indian reservation in any State or Territory, or through any lands held by an Indian tribe or nation in Indian Territory, or through any lands reserved for an Indian agency or for other purposes in connection with the Indian service, or through any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation, is hereby granted to any railroad company organized under the laws of the United States, or of any State or Territory, which shall comply with the provisions of this Act and such rules and regulations as may be prescribed thereunder: Provided, That no right of way shall be granted under this Act until the Secretary of the Interior is satisfied that the company applying has made said application in good faith and with intent and ability to construct said road, and in case objection to the granting of such right of way shall be made, said Secretary shall afford the parties so objecting a full opportunity to be heard: Provided further, That where a railroad has heretofore been constructed, or is in actual course of construction, no parallel right of way within ten miles on either side shall be granted by the Secretary of the Interior unless, in his opinion, public interest will be promoted thereby. Provided also, That as a condition precedent to each and every grant of a right of way under authority of this Act, each and every railway company applying for such grant shall stipulate that it will construct and permanently maintain suitable passenger and freight stations for the convenience of each and every town site established by the Government along said right of way. (30 Stat. 990. 36 Stat. 859.)

This was the first section of an act entitled "An act to provide for the acquiring of rights of way by railroad companies through Indian reservations, Indian lands, and Indian allotments, and for other purposes."

The other sections of the act, sections 2-8 thereof, are set forth post, §§ 4182-4188.

This section, as originally enacted, did not contain the last proviso thereof, (1668)
as set forth here. Said proviso was added by amendment by Act June 25, 1910, c. 431, § 16, last cited above.

This act, so far as it applied to the Indian Territory and Oklahoma, was repealed by Act Feb. 28, 1902, c. 134, § 23, 32 Stat. 50. Said repealing section contained a clause saving rights already accrued.

Further provisions for grants of rights of way for telephone and telegraph lines through Indian reservations, etc., were made by Act March 3, 1901, c. 832, § 3, post, § 4191.

Grants for railways in Indian reservations of lands for reservoirs, materials, etc., were authorized by provisions of Act March 3, 1909, c. 263, and Act May 6, 1910, c. 204, post, §§ 4189, 4190.

Grants of rights of way for pipe lines for conveyance of oil and gas through Indian reservations and other Indian lands were authorized by Act March 11, 1904, c. 506, post, §§ 4192, 4193.

Grants of rights of way for electrical poles and lines for transmission, etc., of electrical power, and for telephone and telegraph purposes, over public lands, national forests, and reservations of the United States, were also authorized by provisions of said Act March 4, 1911, c. 238, post, §§ 4192, 4103.

Sections 1–12 of Act Feb. 28, 1902, c. 134, 32 Stat. 48, granted to the Enid & Anadarko Railway Company a right of way for a railway and telegraph and telephone line through the Territory of Oklahoma and the Indian Territory, with provisions for the construction and regulation thereof. These sections are omitted as local only. Sections 13–23 of said Act Feb. 28, 1902, c. 134, 32 Stat. 47, related to rights of way for railway and telegraph and telephone lines in the Indian Territory and the Territory of Oklahoma. Said sections were superseded by the admission of said Territories to the Union as the State of Oklahoma, pursuant to Act June 16, 1906, c. 3335, 34 Stat. 267.

§ 4182. (Act March 2, 1899, c. 374, § 2, as amended, Act June 21, 1906, c. 3504.) Width of right of way; grounds for stations, etc.

Such right of way shall not exceed fifty feet in width on each side of the center line of the road, except where there are heavy cuts and fills, when it shall not exceed one hundred feet in width on each side of the road, and may include grounds adjacent thereto for station buildings, depots, machine shops, side tracks, turnouts, and water stations, not to exceed two hundred feet in width by a length of two thousand feet, and not more than one station to be located within any one continuous length of ten miles of road. (30 Stat. 990. 34 Stat. 330.)

This section as originally enacted, was as follows:

"Such right of way shall not exceed fifty feet in width on each side of the center line of the road, except where there are heavy cuts and fills, when it shall not exceed one hundred feet in width on each side of the road, and may include ground adjacent thereto for station buildings, depots, machine shops, side tracks, turnouts, and water stations, not to exceed one hundred feet in width by a length of two thousand feet, and not more than one station to be located within any one continuous length of ten miles of road: Provided, That this section shall apply to all rights of way heretofore granted to railroads in the Indian Territory where no provisions defining the width of the rights of way are set out in the Act granting the same."

It was amended to read as set forth here, by Act June 21, 1906, c. 3504, last cited above.

See notes to preceding section of this act, ante, § 4181.

§ 4183. (Act March 2, 1899, c. 374, § 3.) Survey; maps; compensation for right of way.

The line of route of said road may be surveyed and located (1669)
through and across any of said lands at any time, upon permis-
sion therefor being obtained from the Secretary of the Interior;
but before the grant of such right of way shall become effective a
map of the survey of the line or route of said road must be filed with
and approved by the Secretary of the Interior, and the company
must make payment to the Secretary of the Interior for the benefit
of the tribe or nation, of full compensation for such right of way,
including all damage to improvements and adjacent lands, which
compensation shall be determined and paid under the direction of
the Secretary of the Interior, in such manner as he may prescribe.
Before any such railroad shall be constructed through any land,
claim, or improvement, held by individual occupants or allottees in
pursuance of any treaties or laws of the United States, compensa-
tion shall be made to such occupant or allottee for all property to
be taken, or damage done, by reason of the construction of such
railroad. In case of failure to make amicable settlement with any
such occupant or allottee, such compensation shall be determined
by the appraisement of three disinterested referees, to be appointed
by the Secretary of the Interior, who, before entering upon the du-
ties of their appointment, shall take and subscribe before compet-
tent authority an oath that they will faithfully and impartially dis-
charge the duties of their appointment, which oath, duly certified,
shall be returned with their award to the Secretary of the Interior.
If the referees cannot agree, then any two of them are authorized
to make the award. Either party being dissatisfied with the finding
of the referees shall have the right within sixty days after the mak-
ing of the award and notice of the same, to appeal, in case the land
in question is in the Indian Territory, by original petition to the
United States court in the Indian Territory sitting at the place near-
est and most convenient to the property sought to be condemned;
and if said land is situated in any State or Territory other than the
Indian Territory, then to the United States district court for such
State or Territory, where the case shall be tried de novo and the
judgment for damages rendered by the court shall be final and con-
cclusive.

When proceedings are commenced in court as aforesaid, the rail-
road company shall deposit the amount of the award made by the
referees with the court to abide the judgment thereof, and then have
the right to enter upon the property sought to be condemned and
proceed with the construction of the railway. Each of the referees
shall receive for his compensation the sum of four dollars per day
while engaged in the hearing of any case submitted to them under
this Act. Witnesses shall receive the fees usually allowed by courts
within the district where such land is located. Costs, including com-
ensation of the referees, shall be made part of the award or judg-
ment, and be paid by such railroad company. (30 Stat. 991.)

See notes to section 1 of this act, ante, § 4181.

§ 4184. (Act March 2, 1899, c. 374, § 4.) Time for completion of
road; forfeiture of rights granted.

If any such company shall fail to construct and put in opera-
(1670)
tion one-tenth of its entire line in one year, or to complete its road within three years after the approval of its map of location by the Secretary of the Interior, the right of way hereby granted shall be deemed forfeited and abandoned ipso facto as to that portion of the road not then constructed and in operation: Provided, That the Secretary may, when he deems proper, extend, for a period not exceeding two years, the time for the completion of any road for which right of way has been granted and a part of which shall have been built. (30 Stat. 991.)

See notes to section 1 of this act, ante, § 4181.

§ 4185. (Act March 2, 1899, c. 374, § 5.) Payments by railroads in Indian Territory for benefit of Indians; transportation rates; transportation of mails.
Where a railroad is constructed under the provisions of this Act through the Indian Territory there shall be paid by the railroad company to the Secretary of the Interior, for the benefit of the particular nation or tribe through whose lands the road may be located, such an annual charge as may be prescribed by the Secretary of the Interior, not less than fifteen dollars for each mile of road, the same to be paid so long as said land shall be owned and occupied by such nation or tribe, which payment shall be in addition to the compensation otherwise required herein. And within the Indian Territory upon any railroad constructed under the provisions of this Act the rates and charges for passenger and freight service, if not otherwise prescribed by law, may be prescribed by the Secretary of the Interior from time to time, and the grants herein are made upon condition that the companies shall transport mails whenever required to do so by the Post-Office Department. (30 Stat. 992.)

See notes to section 1 of this act, ante, § 4181.

§ 4186. (Act March 2, 1899, c. 374, § 6.) Application of Act March 3, 1875, c. 152, § 2.
The provisions of section two of the Act of March third, eighteen hundred and seventy-five, entitled "An Act granting to railroads the right of way through the public lands of the United States," are hereby extended and made applicable to rights of way granted under this Act and to railroad companies obtaining such rights of way. (30 Stat. 992.)

See notes to section 1 of this act, ante, § 4181.
Act March 3, 1875, c. 152, § 2, mentioned in this section, is set forth post, § 4022.

§ 4187. (Act March 2, 1899, c. 374, § 7.) Regulations for execution of act.
The Secretary of the Interior shall make all needful rules and regulations, not inconsistent herewith, for the proper execution and carrying into effect of all the provisions of this Act. (30 Stat. 992.)

See notes to section 1 of this act, ante, § 4181.

(1671)
§ 4188. (Act March 2, 1899, c. 374, § 8.) Right to amend or repeal act.

Congress hereby reserves the right at any time to alter, amend, or repeal this Act, or any portion thereof. (30 Stat. 992.)

See notes to section 1 of this act, ante, § 4181.

§ 4189. (Act March 3, 1909, c. 263.) Railways in Indian reservations; acquisition of lands for reservoirs, materials, or ballast pits, or for growing trees to protect lines; application and conveyance; restrictions; use of proceeds.

When, in the judgment of the Secretary of the Interior, it is necessary for any railway company owning or operating a line of railway in any Indian reservation to acquire lands in such Indian reservation for reservoirs, material, or ballast pits for the construction, repair, and maintenance of its railway, or for the purpose of planting and growing thereon trees to protect its line of railway, the said Secretary be, and he is hereby, authorized to grant such lands to any such railway company under such terms and conditions and such rules and regulations as may be prescribed by the said Secretary.

That when any railway company desiring to secure the benefits of this provision shall file with the Secretary of the Interior an application describing the lands which it desires to purchase, and upon the payment of the price agreed upon the said Secretary shall cause such lands to be conveyed to the railway company applying therefor upon such terms and conditions as he may deem proper: Provided, That no lands shall be acquired under the terms of this provision in greater quantities than forty acres for any one reservoir, and one hundred and sixty acres for any material or ballast pit, to the extent of not more than one reservoir and one material or gravel pit in any one section of ten miles of any such railway in any Indian reservation: And provided further, That the lands acquired for tree planting shall be taken only at such places along the line of the railway company applying therefor as in the judgment of the said Secretary may be necessary, and shall be taken in strips adjoining and parallel with the right of way of the railway company taking the same, and shall not exceed one hundred and fifty feet in width.

That all moneys paid for such lands shall be deposited in the Treasury of the United States to the credit of the tribe or tribes, and the moneys received by said Secretary as damages sustained by individual members of the Indian tribe, which damages shall be ascertained by the Secretary of the Interior and paid by the railway company taking such lands, shall be paid by said Secretary to the Indian or Indians sustaining such damages. (35 Stat. 781.)

These paragraphs were part of the Indian appropriation act for the fiscal year 1910, cited above.

These provisions were extended to lands allotted in severalty to individual Indians, by Act May 6, 1910, c. 204, post, § 4190.

§ 4190. (Act May 6, 1910, c. 204.) Railways in Indian reservations; acquisition of lands allotted in severalty to Indians, for reservoirs, materials, etc.

The provisions of the Act entitled "An Act making appropri-
tion for the current and contingent expenses of the Indian Department, for fulfilling treaty stipulations with various Indian tribes, and for other purposes, for the fiscal year ending June thirtieth, nineteen hundred and ten," approved March third, nineteen hundred and nine, which authorized the Secretary of the Interior to grant to railway companies lands in Indian reservations for reservoirs, material or ballast pits, or for the purpose of planting and growing trees to protect their lines of railway, be, and the same are hereby, extended and made applicable to any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation; that the damages and compensation to be paid to any Indian allottee shall be ascertained and fixed in such manner as the Secretary of the Interior may direct and shall be paid by the railway company to said Secretary; that the damages and compensation paid to the Secretary of the Interior by the railway company taking any such land shall be paid by said Secretary to the allottee sustaining such damages. (36 Stat. 349.)

This was an act entitled "An act granting lands for reservoirs, and so forth."

The provisions of Act March 3, 1901, c. 263, mentioned in this act, are set forth ante, § 4180.

§ 4191. (Act March 3, 1901, c. 832, § 3.) Rights of way for telephone and telegraph lines through Indian reservations, etc.; grants by Secretary of Interior; approval of maps of location; compensation to Indians; annual tax; regulations; state, territorial or municipal taxation; regulation of tolls or charges; regulation of lines by municipalities.

The Secretary of the Interior is hereby authorized and empowered to grant a right of way, in the nature of an easement, for the construction, operation, and maintenance of telephone and telegraph lines and offices for general telephone and telegraph business through any Indian reservation, through any lands held by an Indian tribe or nation in the Indian Territory, through any lands reserved for an Indian agency or Indian school, or for other purpose in connection with the Indian service, or through any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation, upon the terms and conditions herein expressed. No such lines shall be constructed across Indian lands, as above mentioned, until authority therefor has first been obtained from the Secretary of the Interior, and the maps of definite location of the lines shall be subject to his approval. The compensation to be paid the tribes in their tribal capacity and the individual allottees for such right of way through their lands shall be determined in such manner as the Secretary of the Interior may direct, and shall be subject to his final approval; and where such lines are not subject to State or Territorial taxation the company or owner of the line shall pay to the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate, not exceeding five dollars for each ten miles

(1673)
§ 4191

INDIANS

(Tit. 28)

of line so constructed and maintained; and all such lines shall be constructed and maintained under such rules and regulations as said Secretary may prescribe. But nothing herein contained shall be so construed as to exempt the owners of such lines from the payment of any tax that may be lawfully assessed against them by either State, Territorial, or municipal authority; and Congress hereby expressly reserves the right to regulate the tolls or charges for the transmission of messages over any lines constructed under the provisions of this Act: Provided, That incorporated cities and towns into or through which such telephone or telegraphic lines may be constructed shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such towns and cities. (31 Stat. 1083.)

This section was part of the Indian appropriation act for the fiscal year 1902.

A further provision of the section, that lands allotted in severalty to Indians might be condemned for any public purpose under the laws of the state or territory where located, in the same manner as land owned in fee might be condemned, is set forth post, § 4240.

§ 4192. (Act March 11, 1904, c. 505, § 1.) Right of way through Indian reservations or other Indian lands for pipe lines.

The Secretary of the Interior is hereby authorized and empowered to grant a right of way in the nature of an easement for the construction, operation, and maintenance of pipe lines for the conveyance of oil and gas through any Indian reservation, through any lands held by an Indian tribe or nation in the Indian Territory, through any lands reserved for an Indian agency or Indian school, or for other purpose in connection with the Indian service, or through any lands which have been allotted in severalty to any individual Indian under any law or treaty, but which have not been conveyed to the allottee with full power of alienation, upon the terms and conditions herein expressed. No such lines shall be constructed across Indian lands, as above mentioned, until authority therefor has first been obtained from, and the maps of definite location of said lines approved by, the Secretary of the Interior: Provided, That the construction of lateral lines from the main pipe line establishing connection with oil and gas wells on the individual allotments of citizens may be constructed without securing authority from the Secretary of the Interior and without filing maps of definite location, when the consent of the allottee upon whose lands oil or gas wells may be located and of all other allottees through whose lands said lateral pipe lines may pass has been obtained by the pipe line company: Provided further, That in case it is desired to run a pipe line under the line of any railroad, and satisfactory arrangements can not be made with the railroad company, then the question shall be referred to the Secretary of the Interior, who shall prescribe the terms and conditions under which the pipe line company shall be permitted to lay its lines under said railroad. The compensation to be paid the tribes in their tribal capacity and the individual allottees for such right of way through their lands shall be determined in such manner as the Secretary of the Interior may direct, and shall be
subject to his final approval. And where such lines are not subject to State or Territorial taxation the company or owner of the line shall pay to the Secretary of the Interior, for the use and benefit of the Indians, such annual tax as he may designate, not exceeding five dollars for each ten miles of line so constructed and maintained under such rules and regulations as said Secretary may prescribe. But nothing herein contained shall be so construed as to exempt the owners of such lines from the payment of any tax that may be lawfully assessed against them by either State, Territorial, or municipal authority. And incorporated cities and towns into and through which such pipe lines may be constructed shall have the power to regulate the manner of construction therein, and nothing herein contained shall be so construed as to deny the right of municipal taxation in such towns and cities, and nothing herein shall authorize the use of such right of way except for pipe line, and then only so far as may be necessary for its construction, maintenance, and care: Provided, That the rights herein granted shall not extend beyond a period of twenty years: Provided further, That the Secretary of the Interior, at the expiration of said twenty years, may extend the right to maintain any pipe line constructed under this Act for another period not to exceed twenty years from the expiration of the first right, upon such terms and conditions as he may deem proper. (33 Stat. 65.)

This section and the section next following were an act entitled "An act authorizing the Secretary of the Interior to grant right of way for pipe lines through Indian lands."

Previous provisions for grants of rights of way for pipe lines through public lands in Colorado and Wyoming were made by Act May 21, 1896, c. 212, post, §§ 4949-4962.

§ 4193. (Act March 11, 1904, c. 505, § 2.) Right to amend or repeal act.

The right to alter, amend, or repeal this Act is expressly reserved. (33 Stat. 65.)

§ 4194. (Act March 3, 1901, c. 832, § 4.) Opening highways through Indian reservations, etc.

The Secretary of the Interior is hereby authorized to grant permission, upon compliance with such requirements as he may deem necessary, to the proper State or local authorities for the opening and establishment of public highways, in accordance with the laws of the State or Territory in which the lands are situated, through any Indian reservation or through any lands which have been allotted in severalty to any individual Indians under any laws or treaties but which have not been conveyed to the allottees with full power of alienation. (31 Stat. 1084.)

This section was part of the Indian appropriation act for the fiscal year 1902, cited above.

A provision of section 3 of this act, that lands allotted in severalty to Indians might be condemned for any public purpose under the laws of the State or Territory where located, in the same manner as land owned in fee might be condemned, is set forth post, § 4240.

(1675)
CHAPTER FOUR C
Allotment of Indian Lands

This chapter, inserted here as additional to the original chapters of Title XXVIII of the Revised Statutes, includes provisions, general and permanent in their nature, for allotment of land in severalty to Indians and the protection of the rights of the allottees, their heirs, etc., particularly the provisions, remaining in force, of the General Allotment Act of Feb. 8, 1887, c. 110, 24 Stat. 388, the act to amend and extend the benefits of said General Allotment Act, Act Feb. 28, 1891, c. 383, 26 Stat. 794, and the act to provide for determining the heirs and for disposition and sale of allotments of deceased Indians, etc., Act June 25, 1910, c. 431, 38 Stat. 855, and acts amendatory thereof and additional thereto. Special provisions relating to such allotments, etc., to particular tribes or bands, or to individual Indians, or of particular reservations or tracts, etc., of land, are not included.

Sec. 4195. Allotments on Indian reservations; irrigable and non-irrigable lands; effect of provisions for allotments in treaty or act setting apart reservation.

Sec. 4196. Selection of allotments.

Sec. 4197. Allotments to be made by special agents and agents in charge of reservations; certificates thereof.

Sec. 4198. Allotments from public lands to Indians not residing on reservations, etc.; payment from Treasury of fees to officers of local land offices.

Sec. 4199. Allotments from public lands to Indians making settlement thereon; patents therefor; payment from Treasury of fees to officers of local land offices.

Sec. 4200. Allotments within national forests, to Indians occupying lands therein, not entitled to allotments on Indian reservations, etc.; lands more valuable for agriculture or grazing than for timber to be allotted.

Sec. 4201. Patents for allotments to be held in trust; laws of descent and partition applicable; purchase by United States of lands not allotted, for homesteads to settlers, purchase money to be held in trust; confirmation of occupancy of lands by religious organizations; preference of allottees in employment of Indian police, etc.

Sec. 4202. Continuance of restrictions on alienation contained in patent.

Sec. 4203. Allottees, after conveyance to them in fee, entitled to benefit of and subject to laws of State, etc.; issue of patents in fee to allottees, when competent, at any time; lands not liable for prior debts; allottees having trust patents to be under exclusive jurisdiction of United States.

Sec. 4204. Irrigation of allotted lands; regulation of use of water.

Sec. 4205. Irrigation of allotted lands in carrying out irrigation project under Reclamation Act; arrangements authorized; no lien, etc., to be created against lands.

Sec. 4206. Provisions of Allotment Act not to extend to territory occupied by certain tribes.

Sec. 4207. Provisions of Allotment Act extended to certain tribes in Indian Territory.

Sec. 4208. Appropriation for surveys to be repaid out of proceeds of sales under act.

Sec. 4209. Power to grant rights of way, etc., not affected by act.

Sec. 4210. Removal of Southern Utes to new reservation not prevented by act.

Sec. 4211. Surrender of patent, and selection of and patent for other land.

Sec. 4212. Correction of errors in allotments and patents; cancellation of patents erroneously issued, and opening to settlement of lands so patented; restrictions on cancellation of conditional patents.

Sec. 4213. Cancellation of allotment of un-
suitable land, and exchange for and allotment of other land.

4214. Actions for allotments; jurisdiction; parties; effect of judgment; right of appeal.

4215. Action for allotments; proceedings; service of petition on and defense by district attorney.

4216. Limitations of actions for lands patented in severalty under treaties.

4217. Leases of allotted lands where allottee is incapacitated to occupy or improve them.

4218. Leases of lands occupied by Indians, bought and paid for by them, not needed for farming, etc., purposes.

4219. Leases of surplus lands of tribe.

4220. Leases of allotted lands for mining purposes.

4221. Leases of allotments held in trust; disposition of proceeds.

4222. Determination of descent of land to heirs of deceased allottee.

4223. Sale of allotted lands by heirs of deceased Indian.

4224. Sale of allotted lands on petition of allottee on his heirs, etc.; patents to heirs of deceased allottee, or sale of lands allotted to him; use of proceeds of sales; patents to purchasers; exception from section of certain States.

4225. Sale of allotment, or inherited interest therein, of incompetent Indian; use of proceeds; title conveyed.

4226. Ascertaining of heirs of deceased allottee; issue of patent to such heirs, or sale or partition of lands; disposition of proceeds of sale; certificate of competency, and effect to remove restrictions on alienation; deposit of Indian money in banks.

4227. Deduction for cost of determining heirs of deceased allottee from proceeds of sale of lands or trust funds of estate; accounting and report thereof.

4228. Disposal by will of allotments held under trust or other patent containing restrictions, or of moneys, etc., held in trust; approval of will required; trust or restrictive period not terminated thereby; sale of lands, issue of patents in fee to devisees, payment of moneys to legatee, etc.; certain tribes excepted.

4229. Surrender of allotments by relinquishment for benefit of children.

4230. Sale of timber on unallotted lands of reservations; use of proceeds; certain States excepted.

4231. Sale of timber on allotments held under trust or other patents containing restrictions; use of proceeds.

4232. Patents with restrictions for lots in Indian villages on reservations in State of Washington.

4233. Cancellation of trust patents for allotments within power or reservoir sites or reservation for irrigation purposes; reimbursement for improvements; lieu allotments.

4234. Provisions of act not to apply to certain tribes.

4235. Lands acquired under Allotment Act not liable for debts prior to final patent therefor.

4236. Moneys from lease or sale of lands held in trust not liable for debts contracted during trust period or during minority of Indian.

4237. Interest on moneys from proceeds of sale of lands, held for minors.

4238. Sale of allotted lands within reclamation projects; use of proceeds.

4239. Payment of taxes on allotted lands from share of allottee in tribal funds.

4240. Condemnation of allotted lands for public purposes under laws of States, etc.

§ 4195. (Act Feb. 8, 1887, c. 119, § 1, as amended, Act Feb. 28, 1891, c. 383, § 1, and Act June 25, 1910, c. 431, § 17.) Allotments on Indian reservations; irrigable and non-irrigable lands; effect of provisions for allotments in treaty or act setting apart reservation.

In all cases where any tribe or band of Indians has been or shall (1677)
hereafter be located upon any reservation created for their use by
 treaty stipulation, Act of Congress, or executive order, the President
 shall be authorized to cause the same or any part thereof to be sur-
 veyed or resurveyed whenever in his opinion such reservation or any
 part may be advantageously utilized for agricultural or grazing pur-
 poses by such Indians, and to cause allotment to each Indian located
 thereon to be made in such areas as in his opinion may be for their
 best interest not to exceed eighty acres of agricultural or one hun-
 dred and sixty acres of grazing land to any one Indian. And when-
 ever it shall appear to the President that lands on any Indian reserva-
 tion subject to allotment by authority of law have been or may be
 brought within any irrigation project, he may cause allotments of
 such irrigable lands to be made to the Indians entitled thereto in such
 areas as may be for their best interest not to exceed, however, forty
 acres to any one Indian, and such irrigable land shall be held to be
 equal in quantity to twice the number of acres of non-irrigable agri-
 cultural land and four times the number of acres of non-irrigable
 grazing land: Provided, That the remaining area to which any In-
 dian may be entitled under existing law after he shall have received
 his proportion of irrigable land on the basis of equalization herein
 established may be allotted to him from nonirrigable agricultural or
 grazing lands: Provided further, That where a treaty or Act of
 Congress setting apart such reservation provides for allotments in
 severalty in quantity greater or less than that herein authorized, the
 President shall cause allotments on such reservations to be made in
 quantity as specified in such treaty or Act subject, however, to the
 basis of equalization between irrigable and nonirrigable lands estab-
 lished herein, but in such cases allotments may be made in quantity
 as specified in this Act, with the consent of the Indians expressed in
 such manner as the President in his discretion may require. (24 Stat.
 388. 26 Stat. 794. 36 Stat. 859.)

 This was the first section of the General Allotment Act of Feb. 8, 1887, c.
 119, entitled "An act to provide for the allotment of lands in severalty to In-
 dians on the various reservations, and to extend the protection of the laws
 of the United States and the Territories over the Indians, and for other pur-
 poses."

 The section, as originally enacted, provided for allotments of different quanti-
ties to various classes of Indians, viz., heads of families, single persons over
 18 years of age, orphan children under 18 years of age, and other single persons
 under that age.

 It was amended, by substituting for said provisions a clause providing for
 allotment to each Indian of one-eighth of a section of land, and besides some
 minor changes, by inserting a proviso for making allotments in the quantity
 specified, where existing agreements or laws provided for allotments in ac-
cordance with the original act, by Act Feb. 28, 1891, c. 383, § 3, cited above.

 Said section 1 of said amendatory act was thereafter amended, by making
 numerous verbal changes, by changing said provision as to the quantity of land
 to be allotted to each Indian so that it should not exceed 80 acres of agricul-
tural land or 160 acres of grazing land, by inserting the provisions as to allot-
ment of irrigable and nonirrigable lands which are contained in the section
 and the two provisos set forth here, and by omitting other provisos of said
 (1678)
original and first amendatory acts, by Act June 25, 1910, c. 431, § 17, last cited above.

The other sections of said General Allotment Act, sections 2–11 thereof, are set forth post, §§ 4196–4198, 4201, 4203, 4204, 4206, 4208–4210.

Said first amendatory Act Feb. 28, 1891, c. 383, 26 Stat. 794, was entitled "An act to amend and further extend the benefits of" said General Allotment Act of Feb. 8, 1887.

Section 2 of said amendatory Act Feb. 28, 1891, c. 383, provided that where allotments had been made upon any reservation under said original act, and the quantity of land in such reservation was sufficient to give each member of the tribe 80 acres, such allotments should be revised and equalized under the provisions of said amendatory act. Said section is omitted as temporary merely, and executed.

The other sections of said amendatory Act of Feb. 28, 1891, c. 383, being sections 3–5 thereof, so far as they remain in force, are set forth post, §§ 4196, 4218, 4222.

§ 4196. (Act Feb. 8, 1887, c. 119, § 2.) Selection of allotments.

All allotments set apart under the provisions of this act shall be selected by the Indians, heads of families selecting for their minor children, and the agents shall select for each orphan child, and in such manner as to embrace the improvements of the Indians making the selection. Where the improvements of two or more Indians have been made on the same legal subdivision of land, unless they shall otherwise agree, a provisional line may be run dividing said lands between them, and the amount to which each is entitled shall be equalized in the assignment of the remainder of the land to which they are entitled under this act: Provided, That if any one entitled to an allotment shall fail to make a selection within four years after the President shall direct that allotments may be made on a particular reservation, the Secretary of the Interior may direct the agent of such tribe or band, if such there be, and if there be no agent, then a special agent appointed for that purpose, to make a selection for such Indian, which election shall be allotted as in cases where selections are made by the Indians, and patents shall issue in like manner. (24 Stat. 388.)

This section was part of the General Allotment Act of 1887, cited above. See notes to section 1 of the act, ante, § 4185.

§ 4197. (Act Feb. 8, 1887, c. 119, § 3, as amended, Act June 25, 1910, c. 431, § 9.) Allotments to be made by special agents and agents in charge of reservations; certificates thereof.

The allotments provided for in this Act shall be made by special agents appointed by the President for such purpose, and the superintendents or agents in charge of the respective reservations on which the allotments are directed to be made, or, in the discretion of the Secretary of the Interior, such allotments may be made by the superintendent or agent in charge of such reservation, under such rules and regulations as the Secretary of the Interior may from time to time prescribe, and shall be certified by such special allotting agents, superintendents, or agents to the Commissioner of Indian Affairs, in duplicate, one copy to be retained in the Indian Office and the other to be transmitted to the Secretary of the Interior for his action, and (1679)
§ 4197  INDIANS  (Tit. 28)

to be deposited in the General Land Office.  (24 Stat. 389. 36 Stat. 858.)

This section was part of the General Allotment Act of 1887, first cited above.

The section, as originally enacted, did not contain the words “superintendents or,” the provision, “or, in the discretion of the Secretary of the Interior, such allotments may be made by the superintendent or agent in charge of such reservation,” and the further words, “special allotting agents, superintendents, or.” The words quoted were inserted by amendment by Act June 25, 1910, c. 431, § 0, last cited above.

See notes to section 1 of this act, ante, § 4195.

§ 4198.  (Act Feb. 8, 1887, c. 119, § 4.)  Allotments from public lands to Indians not residing on reservations, etc.; payment from Treasury of fees to officers of local land offices.

Where any Indian not residing upon a reservation, or for whose tribe no reservation has been provided by treaty, act of Congress, or executive order, shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land-office for the district in which the lands are located, to have the same allotted to him or her, and to his or her children, in quantities and manner as provided in this act for Indians residing upon reservations; and when such settlement is made upon unsurveyed lands the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto; and patents shall be issued to them for such lands in the manner and with the restrictions as herein provided. And the fees to which the officers of such local land-office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them, from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior.  (24 Stat. 389.)

This section was part of the General Allotment Act 1887, cited above.

See notes to section 1 of this act, ante, § 4195.

Subsequent provisions for allotments to Indians entitled to allotment under existing laws, making settlement upon lands not otherwise appropriated, were made by Act Feb. 28, 1891, c. 383, § 4, amended by Act June 25, 1910, c. 431, § 17, post, § 4199.

§ 4199.  (Act Feb. 28, 1891, c. 383, § 4, as amended, Act June 25, 1910, c. 431, § 17.)  Allotments from public lands to Indians making settlement thereon; patents therefor; payment from Treasury of fees to officers of local land offices.

Where any Indian entitled to allotment under existing laws shall make settlement upon any surveyed or unsurveyed lands of the United States not otherwise appropriated, he or she shall be entitled, upon application to the local land office for the district in which the lands are located, to have the same allotted to him or her and to his or her children in manner as provided by law for allotments to Indians residing upon reservations, and such allotments to Indians on the public domain as herein provided shall be made in such areas as the President may deem proper, not to exceed, however, forty acres of irrigable land (1880)
or eighty acres of nonirrigable agricultural land or one hundred sixty acres of nonirrigable grazing land to any one Indian; and when such settlement is made upon unsurveyed lands the grant to such Indians shall be adjusted upon the survey of the lands so as to conform thereto, and patent shall be issued to them for such lands in the manner and with the restrictions provided in the Act of which this is amendatory. And the fees to which the officers of such local land office would have been entitled had such lands been entered under the general laws for the disposition of the public lands shall be paid to them from any moneys in the Treasury of the United States not otherwise appropriated, upon a statement of an account in their behalf for such fees by the Commissioner of the General Land Office, and a certification of such account to the Secretary of the Treasury by the Secretary of the Interior. (26 Stat. 795. 36 Stat. 860.)

This section was part of the act to amend and further extend the benefits of the General Allotment Act of Feb. 8, 1887, c. 119.

This section, as originally enacted, contained, after the words "to have the same allotted to him or her and to his or her children," the further words, "in quantities and manner as provided in the foregoing section of this amending act for Indians residing upon reservations;" the section so referred to as "the foregoing section" being apparently section 1 of this act, which amended section 1 of the General Allotment Act. See notes to said amended section, ante, § 4195.

The words quoted were changed to read, "to have the same allotted to him or her and to his or her children in manner as provided by law for allotments to Indians residing upon reservations, and such allotments to Indians on the public domain as hereinafter provided shall be made in such areas as the President may deem proper, not to exceed, however, forty acres of irrigable agricultural land or eighty acres of nonirrigable grazing land to any one Indian;" and at the end of the sentence next following, the words of the original section, "to which this is an amendment," were changed to, "of which this is amendatory," by amendment by Act June 25, 1910, c. 431, § 17, last cited above.

A provision for allotments to Indians on the Public domain, who had not theretofore received an allotment, made by Act March 3, 1909, c. 263, 35 Stat. 782, subsequent to the original enactment of this section, was repealed by a provision of the same section which amended this section, Act June 25, 1910, c. 431, § 17, 36 Stat. 860.

§ 4200. (Act June 25, 1910, c. 431, § 31.) Allotments within national forests, to Indians occupying lands therein, not entitled to allotments on Indian reservations, etc.; lands more valuable for agriculture or grazing than for timber to be allotted.

The Secretary of the Interior is hereby authorized, in his discretion, to make allotments within the national forests in conformity with the general allotment laws as amended by section of this Act, to any Indian occupying, living on, or having improvements on land included within any such national forest who is not entitled to an allotment on any existing Indian reservation, or for whose tribe no reservation has been provided, or whose reservation was not sufficient to afford an allotment to each member thereof. All applications for allotments under the provisions of this section shall be submitted to the Secretary of Agriculture who shall determine whether the lands applied for are more valuable for agricultural or grazing purposes than for the timber found thereon; and if it be
§ 4200

found that the lands applied for are more valuable for agricultural or grazing purposes, then the Secretary of the Interior shall cause allotment to be made as herein provided. (36 Stat. 863.)

This section was part of an act to provide for determining the heirs of, and for the disposition of allotments of, deceased Indians, cited above.

The reference in blank to the amendment of the general allotment laws "by section of this Act" was intended, apparently, for section 17 of this act, amending section 1 of Act Feb. 28, 1891, c. 383, which section amended section 1 of the General Allotment Act of Feb. 8, 1887, c. 119, set forth, with said amendments incorporated therein, ante, § 4951.

§ 4201. (Act Feb. 8, 1887, c. 119, § 5.) Patents for allotments to be held in trust; laws of descent and partition applicable; purchase by United States of lands not allotted, for homesteads to settlers, purchase money to be held in trust; confirmation of occupancy of lands by religious organizations; preference of allottees in employment of Indian police, etc.

Upon the approval of the allotments provided for in this act by the Secretary of the Interior, he shall cause patents to issue therefor in the name of the allottees, which patents shall be of the legal effect, and declare that the United States does and will hold the land thus allotted, for the period of twenty-five years, in trust for the sole use and benefit of the Indian to whom such allotment shall have been made, or, in case of his decease, or his heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his heirs as aforesaid, in fee, discharge of said trust and free of all charge or incumbrance whatsoever: Provided, That the President of the United States may in any case in his discretion extend the period. And if any conveyance shall be made of the lands set apart and allotted as herein provided, or any contract made touching the same, before the expiration of the time above mentioned, such conveyance or contract shall be absolutely null and void: Provided, That the law of descent and partition in force in the State or Territory where such lands are situate shall apply thereto after patents therefor have been executed and delivered, except as herein otherwise provided; and the laws of the State of Kansas regulating the descent and partition of real estate shall, so far as practicable, apply to all lands in the Indian Territory which may be allotted in severalty under the provisions of this act: And provided further, That at any time after lands have been allotted to all the Indians of any tribe as herein provided, or sooner if in the opinion of the President it shall be for the best interests of said tribe, it shall be lawful for the Secretary of the Interior to negotiate with such Indian tribe for the purchase and release by said tribe, in conformity with the treaty or statute under which such reservation is held, of such portions of its reservation not allotted as such tribe shall, from time to time, consent to sell, on such terms and conditions as shall be considered just and equitable between the United States and said tribe of Indians, which purchase shall not be complete until ratified by Congress, and the form and
manner of executing such release shall also be prescribed by Congress: Provided however, That all lands adapted to agriculture, with or without irrigation so sold or released to the United States by any Indian tribe shall be held by the United States for the sole purpose of securing homes to actual settlers and shall be disposed of by the United States to actual and bona fide settlers only in tracts not exceeding one hundred and sixty acres to any one person, on such terms as Congress shall prescribe, subject to grants which Congress may make in aid of education: And provided further, That no patents shall issue therefor except to the person so taking the same as and for a homestead, or his heirs, and after the expiration of five years occupancy thereof as such homestead; and any conveyance of such lands so taken as a homestead, or any contract touching the same, or lien thereon, created prior to the date of such patent, shall be null and void. And the sums agreed to be paid by the United States as purchase money for any portion of any such reservation shall be held in the Treasury of the United States for the sole use of the tribe or tribes of Indians; to whom such reservations belonged; and the same, with interest thereon at three per cent. per annum, shall be at all times subject to appropriation by Congress for the education and civilization of such tribe or tribes of Indians or the members thereof. The patents aforesaid shall be recorded in the General Land Office, and afterward delivered, free of charge, to the allottee entitled thereto. And if any religious society or other organization is now occupying any of the public lands to which this act is applicable, for religious or educational work among the Indians, the Secretary of the Interior is hereby authorized to confirm such occupation to such society or organization, in quantity not exceeding one hundred and sixty acres in any one tract, so long as the same shall be so occupied, on such terms as he shall deem just; but nothing herein contained shall change or alter any claim of such society for religious or educational purposes heretofore granted by law. And hereafter in the employment of Indian police, or any other employee in the public service among any of the Indian tribes or bands affected by this act, and where Indians can perform the duties required, those Indians who have availed themselves of the provisions of this act and become citizens of the United States shall be preferred. (24 Stat. 389.)

This section was part of the General Allotment Act of 1887, cited above.
See notes to section 1 of this act, ante, § 4185.
Another proviso, authorizing the Secretary of the Interior, whenever any Indian of the Siletz Indian reservation, in the State of Oregon, fully capable of managing his own affairs, etc., should become the owner of more than 80 acres of land upon said reservation, to cause patent to be issued to him for all such land over 80 acres was added to this section by Act March 3, 1901, c. 832, § 9, 31 Stat. 1085. Said proviso is omitted, as special only.
The continuance of restrictions on alienation contained in a trust or other patent to an allottee was authorized by a provision of Act June 21, 1906, c. 3504, post, § 4202.

(1683)
§ 4202. (Act June 21, 1906, c. 3504.) Continuance of restrictions on alienation contained in patent.

Prior to the expiration of the trust period of any Indian allottee to whom a trust or other patent containing restrictions upon alienation has been or shall be issued under any law or treaty the President may in his discretion continue such restrictions on alienation for such period as he may deem best: Provided, however, That this shall not apply to lands in the Indian Territory. (34 Stat. 326.)

This was a provision of the Indian appropriation act for the fiscal year 1907, cited above.

§ 4203. (Act Feb. 8, 1887, c. 119, § 6, as amended, Act May 8, 1906, c. 2348.) Allottees, after conveyance to them in fee, entitled to benefit of and subject to laws of State, etc.; issue of patents in fee to allottees, when competent, at any time; lands not liable for prior debts; allottees having trust patents to be under exclusive jurisdiction of United States.

At the expiration of the trust period and when the lands have been conveyed to the Indians by patent in fee, as provided in section five of this Act, then each and every allottee shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law. * * Provided, That the Secretary of the Interior may, in his discretion, and he is hereby authorized, whenever he shall be satisfied that any Indian allottee is competent and capable of managing his or her affairs at any time to cause to be issued to such allottee a patent in fee simple, and thereafter all restrictions as to sale, incumbrance, or taxation of said land shall be removed and said land shall not be liable to the satisfaction of any debt contracted prior to the issuing of such patent: Provided further, That until the issuance of fee-simple patents all allottees to whom trust patents shall hereafter be issued shall be subject to the exclusive jurisdiction of the United States: And provided further, That the provisions of this Act shall not extend to any Indians in the Indian Territory. (24 Stat. 390. 34 Stat. 182.)

This section was part of the General Allotment Act of 1887, first cited above.

See notes to section 1 of said act, ante, § 4195.

Further provisions of said Amendatory Act May 8, 1906, c. 2348, 34 Stat. 183, for patents to heirs of a deceased allottee or sale of the lands allotted to him, were superseded by provisions relating to the same subject of Act May 29, 1908, c. 216, post, § 4224.

This section, as originally enacted, provided as follows:

"Upon the completion of said allotments and the patenting of the lands to said allottees, each and every member of the respective bands or tribes of Indians to whom allotments have been made shall have the benefit of and be subject to the laws, both civil and criminal, of the State or Territory in which they may reside; and no Territory shall pass or enforce any law denying any such Indian within its jurisdiction the equal protection of the law."

It further declared every Indian born within the United States to whom allotment should be made, or who had taken up his residence separate from any
tribe and had adopted the habits of civilized life, a citizen of the United States, and entitled to all the rights, etc., of such citizens, etc.

The section was amended by changing the provisions quoted to read as set forth here, and by changing said further provisions relating to citizenship of Indians to read as set forth, with a further amendment by Act May 3, 1906, c. 2348, ante, § 3951, and also by adding, at the end of the section, the three provisions set forth here.

§ 4204. (Act Feb. 8, 1887, c. 119, § 7.) Irrigation of allotted lands; regulation of use of water.

In cases where the use of water for irrigation is necessary to render the lands within any Indian reservation available for agricultural purposes, the Secretary of the Interior be, and he is hereby, authorized to prescribe such rules and regulations as he may deem necessary to secure a just and equal distribution thereof among the Indians residing upon any such reservations; and no other appropriation or grant of water by any riparian proprietor shall be authorized or permitted to the damage of any other riparian proprietor. (24 Stat. 390.)

This section was part of the General Allotment Act of 1887, cited above.

See notes to section 1 of the act, ante, § 4196.

Provisions for irrigation of allotted lands in carrying out irrigation projects within the Reclamation Act were made by Act March 3, 1906, c. 263, post, § 4205.

Cancellation of trust patents for allotments within reservations for irrigation purposes was authorized, with provisions for reimbursement for improvements, and allotments in lieu of those canceled, by Act June 25, 1910, c. 431, § 14, post, § 4223.

Appropriation for irrigation works, etc., for Indian reservations and allotments, are made by the Indian appropriation acts. The provisions for the fiscal year 1914 were by Act June 30, 1913, c. 4, § 1, 38 Stat. 78.

§ 4205. (Act March 3, 1909, c. 263.) Irrigation of allotted lands in carrying out irrigation project under Reclamation Act; arrangements authorized; no lien, etc., to be created against lands.

In carrying out any irrigation project which may be undertaken under the provisions of the Act of June seventeenth, nineteen hundred and two (Thirty-second Statutes, page three hundred and eighty-eight), known as "The Reclamation Act," and which may make possible, and provide for in connection with the reclamation of other lands, the irrigation of all or any part of the irrigable lands heretofore included in allotments made to Indians under the fourth section of the general allotment Act, the Secretary of the Interior be, and he hereby is, authorized to make such arrangement and agreement in reference thereto as said Secretary deems for the best interest of the Indians: Provided, That no lien or charge for construction, operation, or maintenance shall thereby be created against any such lands. (35 Stat. 798.)

These were provisions of the Indian appropriation act for the fiscal year 1910, cited above.

A further proviso annexed thereto, authorized the expenditure, to meet the cost of carrying out this legislation, of a limited amount from the appropriation in the act for irrigation. It is omitted as temporary merely.

Provisions substantially the same were made by the similar appropriation act for the preceding year, Act April 30, 1908, c. 155, 35 Stat. 53.

(1885)
§ 4206. (Act Feb. 8, 1887, c. 119, § 8.) Provisions of allotment Act not to extend to territory occupied by certain tribes.

The provisions of this act shall not extend to the territory occupied by the Cherokees, Creeks, Choctaws, Chickasaws, Seminoles, and Osage, Miامies and Peorias, and Sacs and Foxes, in the Indian Territory, nor to any of the reservations of the Seneca Nation of New York Indians in the State of New York, nor to that strip of territory in the State of Nebraska adjoining the Sioux Nation on the south added by executive order. (24 Stat. 391.)

This section was part of the General Allotment Act of 1887, cited above, and mentioned in the first words of the section.

See notes to section 1 of the act, ante, § 4195.

The provisions of the act were extended to certain tribes named, in the Indian Territory, by a provision of Act March 2, 1889, c. 422, § 1, post, § 4207.

No allotment of lands was to be made or annuities of money paid to any of the Sac and Fox of the Missouri Indians who were not enrolled as members of said tribe on January 1, 1890, by a proviso annexed to Act Feb. 28, 1891, c. 383, § 5, 26 Stat. 706.

§ 4207. (Act March 2, 1889, c. 422, § 1.) Provisions of Allotment Act extended to certain tribes in Indian Territory.

The provisions of chapter one hundred and nineteen of the acts of eighteen hundred and eighty seven, entitled "An act to provide for the allotment of lands in severality to Indians on the various reservations, and to extend the protection of the laws of the United States and the Territories over the Indians, and for other purposes," are hereby declared to extend to and are made applicable to the Confederated Wea, Peoria, Kaskaskia, and Piankeshaw tribes of Indians, and the Western Miami tribe of Indians, now located in the northeastern part of the Indian Territory and to their reservation, in the same manner and to the same extent as if said tribes had not been excepted from the provisions of said act, except as to section six of said act, and as otherwise hereinafter provided. (25 Stat. 1013.)

This provision was part of section 1 of an act to provide for allotment of land in severality to United Peorias and Miامies in Indian Territory, etc., cited above.

The provisions of the General Allotment Act of Feb. 8, 1887, c. 119, mentioned in this act, are set forth ante, §§ 4185-4188, 4201, 4203, 4204, 4206, and post, §§ 4208-4210.

The remaining portions of this section and the other sections of this act, referred to in the last words of this provision, related to the making of an allotment among the members of the tribes named. They are omitted as special only.

§ 4208. (Act Feb. 8, 1887, c. 119, § 9.) Appropriation for surveys to be repaid out of proceeds of sales under act.

That for the purpose of making the surveys and resurveys mentioned in section two of this act, there be, and hereby is, appropriated, out of any moneys in the Treasury not otherwise appropriated, the sum of one hundred thousand dollars, to be repaid proportionately out of the proceeds of the sales of such land as may (1686)
be acquired from the Indians under the provisions of this act. (24
Stat. 391.)

This section and the two sections next following were part of the General
Allotment Act of 1887, cited above.
See notes to section 1 of said act, ante, § 4195.
Section 2 of this act, mentioned in this section, is set forth ante, § 4196.
Appropriations for survey, etc., and allotment of lands under this or other
acts, to be repaid proportionately out of any Indian moneys held in trust or
otherwise and available for such reimbursable purpose, are made annually in
the Indian appropriation acts. The provision for the fiscal year 1914 was by
Act June 30, 1913, c. 4, § 1, 38 Stat. 77.

§ 4209. (Act Feb. 8, 1887, c. 119, § 10.) Power to grant rights of
way, etc., not affected by act.

Nothing in this act contained shall be so construed as to affect
the right and power of Congress to grant the right of way through
any lands granted to an Indian, or a tribe of Indians, for railroads
or other highways, or telegraph lines, for the public use, or to
condemn such lands to public uses, upon making just compensa-
tion. (24 Stat. 391.)

See notes to section 1 of this act, ante, § 4195.
Condemnation of allotted lands for any public purpose under the laws of the
State, etc., where located, was authorized by a provision of Act March 3, 1891,
c. 532, § 3, post, § 4240.

§ 4210. (Act Feb. 8, 1887, c. 119, § 11.) Removal of Southern
Utes to new reservation not prevented by act.

Nothing in this act shall be so construed as to prevent the re-
move of the Southern Ute Indians from their present reservation
in Southwestern Colorado to a new reservation by and with the
consent of a majority of the adult male members of said tribe.
(24 Stat. 391.)

See notes to section 1 of this act, ante, § 4195.

§ 4211. (Act Oct. 18, 1888, c. 1212, § 2.) Surrender of patent, and
selection of and patent for other land.

The Secretary of the Interior is hereby authorized, in his dis-
cretion, and whenever for good and sufficient reason he shall con-
sider it to be for the best interest of the Indians, in making allot-
ments under the statute aforesaid, to permit any Indian to whom
a patent has been issued for land on the reservation to which such
Indian belongs, under treaty or existing law, to surrender such
patent with formal relinquishment by such Indian to the United
States of all his or her right, title, and interest in the land con-
voyed thereby, properly indorsed thereon, and to cancel such sur-
rendered patent: Provided, That the Indian so surrendering the
same shall make a selection, in lieu thereof, of other land and re-
cieve patent therefor, under the provisions of the act of February
eighth, eighteen hundred and eighty-seven. (25 Stat. 612.)

This section was part of an act entitled "An act authorizing the Secretary of
the Interior to accept the surrender of and cancel land patents to Indians in
certain cases."
Section 1 of the act authorized the acceptance of the surrender of and the
 cancellation of patents issued to certain Indians named therein, and is omit-
ted as special only.

(1687)
§ 4212. (Act Jan. 26, 1895, c. 50, as amended, Act April 23, 1904, c. 1489.) Correction of errors in allotments and patents; cancellation of patents erroneously issued, and opening to settlement of lands so patented; restrictions on cancellation of conditional patents.

In all cases where it shall appear that a double allotment of land has heretofore been, or shall hereafter be, wrongfully or erroneously made by the Secretary of the Interior to any Indian by an assumed name or otherwise, or where a mistake has been or shall be made in the description of the land inserted in any patent, said Secretary is hereby authorized and directed, during the time that the United States may hold the title to the land in trust for any such Indian, and for which a conditional patent may have been issued, to rectify and correct such mistakes and cancel any patent which may have been thus erroneously and wrongfully issued whenever in his opinion the same ought to be canceled for error in the issue thereof, and if possession of the original patent can not be obtained, such cancellation shall be effective if made upon the records of the General Land Office; and no proclamation shall be necessary to open to settlement the lands to which such an erroneous allotment patent has been canceled, provided such lands would otherwise be subject to entry: And provided, That such lands shall not be open to settlement for sixty days after such cancellation: And further provided, That no conditional patent that shall have heretofore or that may hereafter be executed in favor of any Indian allottee, excepting in cases hereinafore authorized, and excepting in cases where the conditional patent is relinquished by the patentee or his heirs to take another allotment, shall be subject to cancellation without authority of Congress. (28 Stat. 641. 33 Stat. 297.)

This act originally contained the provisions set forth here, down to and including the words "ought to be canceled for error in the issue thereof," followed by a clause, "or for the best interests of the Indian," and the further clause set forth here, "and, if possession of the original patent can not be obtained, such cancellation shall be effective if made upon the records of the General Land Office," ending with a provision, "and no proclamation shall be necessary to open the lands so allotted to settlement." The act was amended by omitting said clause, "or for the best interests of the Indian," by changing said last clause to read, "and no proclamation shall be necessary to open to settlement the lands to which such an erroneous allotment patent has been canceled, provided such lands would otherwise be subject to entry," and by adding the two provisions, to read as set forth here, by Act April 23, 1904, c. 1489, last cited above.


If any Indian of a tribe whose surplus lands have been or shall be ceded or opened to disposal has received or shall receive an allotment embracing lands unsuitable for allotment purposes, such allotment may be canceled and other unappropriated, unoccupied, and unreserved land of equal area, within the ceded portions of the reservation upon which such Indian belongs, allotted to him (1688)
upon the same terms and with the same restrictions as the original allotment, and lands described in any such canceled allotment shall be disposed of as other ceded lands of such reservation. This provision shall not apply to the lands formerly comprising Indian Territory. The Secretary of the Interior is authorized to prescribe rules and regulations to carry this law into effect. (35 Stat. 784.)

These were provisions of the Indian appropriation act for the fiscal year 1910, cited above.

§ 4214. (Act Aug. 15, 1894, c. 290, § 1, as amended, Act Feb. 6, 1901, c. 217, § 1.) Actions for allotments; jurisdiction; parties; effect of judgment; right of appeal.

All persons who are in whole or in part of Indian blood or descent who are entitled to an allotment of land under any law of Congress, or who claim to be so entitled to land under any allotment Act or under any grant made by Congress, or who claim to have been unlawfully denied or excluded from any allotment or any parcel of land to which they claim to be lawfully entitled by virtue of any Act of Congress, may commence and prosecute or defend any action, suit, or proceeding in relation to their right thereto in the proper [circuit court] of the United States; and said [circuit courts] are hereby given jurisdiction to try and determine any action, suit, or proceeding arising within their respective jurisdictions involving the right of any person, in whole or in part of Indian blood or descent, to any allotment of land under any law or treaty (and in said suit the parties thereto shall be the claimant as plaintiff and the United States as party defendant); and the judgment or decree of any such court in favor of any claimant to an allotment of land shall have the same effect, when properly certified to the Secretary of the Interior, as if such allotment had been allowed and approved by him, but this provision shall not apply to any lands now held by either of the Five Civilized Tribes, nor to any of the lands within the Quapaw Indian Agency: Provided, That the right of appeal shall be allowed to either party as in other cases. (28 Stat. 305. 31 Stat. 760.)

This section, as originally enacted as part of Act Aug. 15, 1894, c. 290, § 1, first cited above, did not contain the provision in parenthesis, "(and in said suit the parties thereto shall be the claimant as plaintiff and the United States as party defendant)." Said provision was inserted by amendment by Act Feb. 6, 1901, c. 217, § 1, last cited above.

The words of this section enclosed in brackets, "circuit court," and "circuit courts," were superseded by the abolition of the circuit courts and the transfer of their jurisdiction to the district courts by the Judicial Code, §§ 280-291, ante, §§ 1266-1268.

§ 4215. (Act Feb. 6, 1901, c. 217, § 2.) Actions for allotments; proceedings; service of petition on and defense by district attorney.

The plaintiff shall cause a copy of his petition filed under the preceding section to be served upon the district attorney of the United States in the district wherein suit is brought, and shall mail a copy of same, by registered letter, to the Attorney-General (1889)
of the United States, and shall thereupon cause to be filed with the clerk of the court wherein suit is instituted an affidavit of such service and the mailing of such letter. It shall be the duty of the district attorney upon whom service of petition is made as afore-said to appear and defend the interests of the Government in the suit, and within sixty days after the service of petition upon him, unless the time should be extended by order of the court made in the case to file a plea, answer, or demurrer on the part of the Government, and to file a notice of any counterclaim, set-off, claim for damages, or other demand or defense whatsoever of the Government in the premises: Provided, That should the district attorney neglect or refuse to file the plea, answer, demurrer, or defense, as required, the plaintiff may proceed with the case under such rules as the court may adopt in the premises; but the plaintiff shall not have judgment or decree for his claim, or any part thereof, unless he shall establish the same by proof satisfactory to the court. (31 Stat. 760.)

This section was added to the provisions of Act Aug. 15, 1894, c. 290, § 1, amended by section 1 of this act to read as set forth ante, § 4214, as a further amendment of said provisions.

§ 4216. (Act May 31, 1902, c. 946.) Limitations of actions for lands patented in severalty under treaties.

In all actions brought in any State court or United States court by any patentee, his heirs, grantees, or any person claiming under such patentee, for the possession or rents or profits of lands patented in severalty to the members of any tribe of Indians under any treaty between it and the United States of America, where a deed has been approved by the Secretary of the Interior to the land sought to be recovered, the statutes of limitations of the States in which said land is situate shall be held to apply, and it shall be a complete defense to such action that the same has not been brought within the time prescribed by the statutes of said State the same as if such action had been brought for the recovery of land patented to others than members of any tribe of Indians. (32 Stat. 284.)

This was the first section of an act entitled "An act providing that the statute of limitations of the several States shall apply as a defense to actions brought in the United States courts for the recovery of lands patented in severalty to members of any tribe of Indians under any treaty between it and the United States of America."

Section 2 of the act provided that it should not apply to any suits brought within one year from and after its passage.

§ 4217. (Act May 31, 1900, c. 598, § 1.) Leases of allotted lands where allottee is incapacitated to occupy or improve them.

Whenever it shall be made to appear to the Secretary of the Interior that, by reason of age, disability, or inability, any allottee of Indian lands can not personally, and with benefit to himself, occupy or improve his allotment or any part thereof, the same may be leased upon such terms, regulations, and conditions as shall be
prescribed by the Secretary for a term not exceeding five years, for farming purposes only. (31 Stat. 229.)

This was a proviso in the Indian appropriation act for the fiscal year 1901, cited above.

A previous provision for authorizing leases of allotted lands, "for a term not exceeding three years for farming or grazing, or ten years for mining purposes," was made by Act Feb. 28, 1891, c. 383, § 3, 26 Stat. 795. Thereafter provisions authorizing such leases, "for a term not exceeding five years for farming or grazing purposes, or ten years for mining or business purposes," were made by each of the Indian appropriation acts for the fiscal years 1895, 1896, 1897, Act Aug. 15, 1894, c. 290, § 1, 28 Stat. 305, Act March 2, 1896, c. 188, § 1, 28 Stat. 900, and Act June 10, 1896, c. 308, § 1, 29 Stat. 340. These provisions were superseded by a proviso, containing the word "hereafter," authorizing such leases "for a term not exceeding three years for farming or grazing purposes, or five years for mining or business purposes," of a proviso in the Indian appropriation act for the fiscal year 1898, Act June 7, 1897, c. 3, § 1, 30 Stat. 85. But all said former provisions may be regarded as superseded by those of this act, which are applicable to "any allottee of Indian lands," and authorize leases "for a term not exceeding five years, for farming purposes only."

Subsequent general provisions for leasing allotted lands held in trust were made by Act June 25, 1910, c. 431, § 4, post, § 4221.

Special provisions permitting Indians to whom lands have been allotted on the Yakima Indian reservation in the State of Washington, to lease such lands for agricultural purposes for a term not exceeding five years, or unimproved lands for a term not exceeding ten years were made by Act March 1, 1896, c. 324, § 1, 28 Stat. 941, and Act May 31, 1900, c. 593, § 1, 31 Stat. 246.

Special provisions for leasing allotted lands on certain reservations named in Utah and in Wyoming, for cultivation under irrigation, were made by Act April 30, 1908, c. 153, 35 Stat. 95, 97.

§ 4218. (Act Feb. 28, 1891, c. 383, § 3.) Leases of lands occupied by Indians, bought and paid for by them, not needed for farming, etc., purposes.

Where lands are occupied by Indians who have bought and paid for the same, and which lands are not needed for farming or agricultural purposes, and are not desired for individual allotments, the same may be leased by authority of the Council speaking for such Indians, for a period not to exceed five years for grazing, or ten years for mining purposes in such quantities and upon such terms and conditions as the agent in charge of such reservation may recommend, subject to the approval of the Secretary of the Interior. (26 Stat. 795.)

This was a proviso annexed to section 3 of the act to amend, etc., the General Allotment Act of Feb. 8, 1887, c. 119.

A subsequent provision for leasing surplus lands of any tribe was made by Act Aug. 15, 1894, c. 290, § 1, post, § 4219.

§ 4219. (Act Aug. 15, 1894, c. 290, § 1.) Leases of surplus lands of tribe.

The surplus lands of any tribe may be leased for farming purposes by the council of such tribe under the same rules and regulations and for the same term of years as is now allowed in the case of leases for grazing purposes. (28 Stat. 305.)

This was a proviso in the Indian appropriation act for the fiscal year 1896, cited above.

Previous provisions, referred to in this proviso, for leasing lands not needed (1691)
for farming, etc., purposes, for grazing, etc., were made by Act Feb. 28, 1891, c. 383, § 3, ante, § 4218.


All lands allotted to Indians in severalty, except allotments made to members of the Five Civilized Tribes and Osage Indians in Oklahoma, may by said allottee be leased for mining purposes for any term of years as may be deemed advisable by the Secretary of the Interior; and the Secretary of the Interior is hereby authorized to perform any and all acts and make such rules and regulations as may be necessary for the purpose of carrying the provisions of this paragraph into full force and effect. (35 Stat. 783.)

This was a provision of the Indian appropriation act for the fiscal year 1910, cited above.

See notes to provisions of Act May 81, 1900, c. 598, § 1, ante, § 4217.

§ 4221. (Act June 25, 1910, c. 431, § 4.) Leases of allotments held in trust; disposition of proceeds.

Any Indian allotment held under a trust patent may be leased by the allottee for a period not to exceed five years, subject to and in conformity with such rules and regulations as the Secretary of the Interior may prescribe, and the proceeds of any such lease shall be paid to the allottee or his heirs, or expended for his or their benefit, in the discretion of the Secretary of the Interior (36 Stat. 856.)

This section was part of an act to provide for determining the heirs of, and for the disposition of allotments of, deceased Indians, cited above.

See notes to provisions of Act May 31, 1900, c. 598, § 1, ante, § 4217.

§ 4222. (Act Feb. 28, 1891, c. 383, § 5.) Determination of descent of land to heirs of deceased allottee.

For the purpose of determining the descent of land to the heirs of any deceased Indian under the provisions of the fifth section of said act, whenever any male and female Indian shall have cohabited together as husband and wife according to the custom and manner of Indian life the issue of such cohabitation shall be, for the purpose aforesaid, taken and deemed to be the legitimate issue of the Indians so living together, and every Indian child, otherwise illegitimate, shall for such purpose be taken and deemed to be the legitimate issue of the father of such child: Provided, That the provisions of this act shall not be held or construed as to apply to the lands commonly called and known as the "Cherokee Outlet." (26 Stat. 795.)

This was part of section 5 of an act to amend and further extend the benefits of the General Allotment Act of 1887, which is the act referred to in the first clause of this section by the words "under the provisions of the fifth section of said act."

A further proviso annexed to this section, that no allotment of land should be made to certain Indians specified, is omitted, as special only.

Subsequent provisions for ascertaining the heirs of deceased allottees, and for the issue to them of patents or other disposition of the lands allotted, and for the disposal of trust allotments by will, etc., were made by Act June 25, 1910, c. 431, §§ 1–5, post, §§ 4226, 4228, 4229.

(1892)
§ 4223. (Act May 27, 1902, c. 888, § 7.) Sale of allotted lands by heirs of deceased Indian.

The adult heirs of any deceased Indian to whom a trust or other patent containing restrictions upon alienation has been or shall be issued for lands allotted to him may sell and convey the lands inherited from such decedent, but in case of minor heirs their interests shall be sold only by a guardian duly appointed by the proper court upon the order of such court, made upon petition filed by the guardian, but all such conveyances shall be subject to the approval of the Secretary of the Interior, and when so approved shall convey a full title to the purchaser, the same as if a final patent without restriction upon the alienation had been issued to the allottee. All allotted land so alienated by the heirs of an Indian allottee and all land so patented to a white allottee shall thereupon be subject to taxation under the laws of the State or Territory where the same is situate: Provided, That the sale herein provided for shall not apply to the homestead during the life of the father, mother or the minority of any child or children.

(32 Stat. 275.)

This section was part of the Indian appropriation act for the fiscal year 1903, cited above.

§ 4224. (Act May 29, 1908, c. 216.) Sale of allotted lands on petition of allottee or his heirs, etc.; patents to heirs of deceased allottee, or sale of lands allotted to him; use of proceeds of sales; patents to purchasers; exception from section of certain States.

The lands, or any part thereof, allotted to any Indian, or any inherited interest therein, which can be sold under existing law by authority of the Secretary of the Interior, except the lands in Oklahoma, and the States of Minnesota and South Dakota may be sold on the petition of the allottee, or his heirs, on such terms and conditions and under such regulations as the Secretary of the Interior may prescribe; and the lands of a minor, or of a person deemed incompetent by the Secretary of the Interior to petition for himself, may be sold in the same manner, on the petition of the natural guardian in the case of infants, and in the case of Indians deemed incompetent as aforesaid, and of orphans without a natural guardian, on petition of a person designated for the purpose by the Secretary of the Interior. That when any Indian who has heretofore received or who may hereafter receive, an allotment of land dies before the expiration of the trust period, the Secretary of the Interior shall ascertain the legal heirs of such Indian, and if satisfied of their ability to manage their own affairs shall cause to be issued in their names a patent in fee simple for said lands; but if he finds them incapable of managing their own affairs, the land may be sold as hereinbefore provided: Provided, That the proceeds derived from all sales hereunder shall be used, during the trust period, for the benefit of the allottee, or heir, so disposing

(1693)
of his interest, under the supervision of the Commissioner of Indian Affairs: And provided further, That upon the approval of any sale hereunder by the Secretary of the Interior he shall cause a patent in fee to issue in the name of the purchaser for the lands so sold: And provided further, That nothing in section one herein contained shall apply to the States of Minnesota and South Dakota. (35 Stat. 444.)

This was the first section of an act entitled “An act to authorize the Secretary of the Interior to issue patents in fee to purchasers of Indian lands under any law now existing or hereafter enacted, and for other purposes.”

Other sections of the act relating to claims of or against individual Indians or particular tribes, or to particular tracts of land or reservations or parts thereof, are omitted, as special only.

Previous provisions, similar to some extent to those of this section, for patents to heirs of deceased allottees or sale of the lands allotted to them, were added by Act May 6, 1908, c. 2345, 35 Stat. 183, to the amendment by that act of section 6 of the General Allotment Act, Act Feb. 8, 1887, c. 119, § 6, incorporated in said section as set forth ante, § 4203. Said added provisions were as follows:

“Hereafter when an allotment of land is made to any Indian, and any such Indian dies before the expiration of the trust period, said allotment shall be cancelled and the land shall revert to the United States, and the Secretary of the Interior shall ascertain the legal heirs of such Indian, and shall cause to be issued to said heirs and in their names, a patent in fee simple for said land, or he may cause the land to be sold as provided by law and issue a patent therefor to the purchaser or purchasers, and pay the net proceeds to the heirs, or their legal representatives, of such deceased Indian. The action of the Secretary of the Interior in determining the legal heirs of any deceased Indian, as provided herein, shall in all respects be conclusive and final.”

These provisions may be regarded as superseded by those of this section.

Special provisions for sale of interests of Indian minors in lands of the Yakima Indian reservation, in the State of Washington, whether by direct allotment or by inheritance, were made by Act March 27, 1908, c. 107, 35 Stat. 49.

§ 4225. (Act March 1, 1907, c. 2285.) Sale of allotment, or inherited interest therein, of noncompetent Indian; use of proceeds; title conveyed.

Any noncompetent Indian to whom a patent containing restrictions against alienation has been issued for an allotment of land in severalty, under any law or treaty, or who may have an interest in any allotment by inheritance, may sell or convey all or any part of such allotment or such inherited interest on such terms and conditions and under such rules and regulations as the Secretary of the Interior may prescribe, and the proceeds derived therefrom shall be used for the benefit of the allottee or heir so disposing of his land or interest, under the supervision of the Commissioner of Indian Affairs; and any conveyance made hereunder and approved by the Secretary of the Interior shall convey full title to the land or interest so sold, the same as if fee-simple patent had been issued to the allottee. (34 Stat. 1018.)

This was a provision of the Indian appropriation act for the fiscal year 1906, cited above.

(1694)
§ 4226. (Act June 25, 1910, c. 431, § 1.) Ascertainment of heirs of deceased allottee; issue of patent to such heirs, or sale or partition of lands; disposition of proceeds of sale; certificate of competency, and effect to remove restrictions on alienation; deposit of Indian moneys in banks.

When any Indian to whom an allotment of land has been made, or may hereafter be made, dies before the expiration of the trust period and before the issuance of a fee simple patent, without having made a will disposing of said allotment as hereinafter provided, the Secretary of the Interior, upon notice and hearing, under such rules as he may prescribe, shall ascertain the legal heirs of such decedent, and his decision thereon shall be final and conclusive. If the Secretary of the Interior decides the heir or heirs of such decedent competent to manage their own affairs, he shall issue to such heir or heirs a patent in fee for the allotment of such decedent; if he shall decide one or more of the heirs to be incompetent he may, in his discretion, cause such lands to be sold: Provided, That if the Secretary of the Interior shall find that the lands of the decedent are capable of partition to the advantage of the heirs, he may cause the shares of such as are competent, upon their petition, to be set aside and patents in fee to be issued to them therefor. All sales of lands allotted to Indians authorized by this or any other Act shall be made under such rules and regulations and upon such terms as the Secretary of the Interior may prescribe, and he shall require a deposit of ten per centum of the purchase price at the time of the sale. Should the purchaser fail to comply with the terms of sale prescribed by the Secretary of the Interior, the amount so paid shall be forfeited; in case the balance of the purchase price is to be paid in deferred payments, a further amount, not exceeding fifteen per centum of the purchase price may be so forfeited for failure to comply with the terms of the sale. All forfeitures shall inure to the benefit of the heirs. Upon payment of the purchase price in full, the Secretary of the Interior shall cause to be issued to the purchaser patent in fee for such land: Provided, That the proceeds of the sale of inherited lands shall be paid to such heir or heirs as may be competent and held in trust subject to use and expenditure during the trust period for such heir or heirs as may be incompetent, as their respective interests shall appear: Provided further, That the Secretary of the Interior is hereby authorized in his discretion to issue a certificate of competency, upon application therefor, to any Indian, or in case of his death, to his heirs, to whom a patent in fee containing restrictions on alienation has been or may hereafter be issued, and such certificate shall have the effect of removing the restrictions on alienation contained in such patent: Provided further, That hereafter any United States Indian agent, superintendent, or other disbursing agent of the Indian Service may deposit Indian moneys, individual or tribal, coming into his hands as custodian, in such bank or banks as he may select: Provided, That

(1695)
the bank or banks so selected by him shall first execute to the said disbursing agent a bond, with approved surety, in such amount as will properly safeguard the funds to be deposited. Such bonds shall be subject to the approval of the Secretary of the Interior. (36 Stat. 855.)

This was the first section of an act entitled “An act to provide for determining the heirs of deceased Indians, for the disposition and sale of allotments of deceased Indians, for the leasing of allotments, and for other purposes.”

Sections 2 and 3 of the act, relating to disposal of trust allotments by will, and to surrender thereof for the benefit of children of the allottees, are set forth post, §§ 4228, 4229.

Section 4 of the act, authorising leases of trust allotments, is set forth ante, § 4221.

Section 5 of the act, making it unlawful to induce any Indian to execute any contract, deed, etc., purporting to convey land, etc., held in trust for him, and prescribing the punishment thereof, is set forth under Title LXIX, “The Criminal Code,” post, § 10227.

Section 6 of the act, amending sections 50 and 58 of the Criminal Code, is incorporated in the sections so amended, post, §§ 10217, 10220.

Sections 7 and 8 of the act, authorising the sale of timber on unallotted lands and on trust allotments, are set forth post, §§ 4230, 4231.

Section 9 of the act amended section 3 of the General Allotment Act of Feb. 8, 1887, c. 119, and is incorporated in the section so amended, ante, § 4197.

Section 10 of the act, authorising patents to Indians for lots occupied by them in villages on reservations in the State of Washington, is set forth post, § 4232.

Sections 11 and 12 of the act, relating to allotments on particular military, etc., reservations, and to individual Indians, are omitted, as special only.

Section 13 of the act provided for withdrawal from location, entry, etc., and for reservation of lands within Indian reservations, for power or reservoir sites, irrigation projects, etc. It is set forth post, § 4526.

Section 15 of the act, authorising a patent for a particular tract of land, is omitted, as special only.

Section 16 of the act amended section 1 of Act March 2, 1890, c. 374, providing for acquiring rights of way by railroad companies through Indian reservations, etc., by adding thereto a proviso, which is incorporated in the section so amended, as set forth ante, § 4181.

Section 17 of the act repealed a provision for allotments to Indians on the public domain who had not theretofore received allotments, of Act March 3, 1909, c. 263, 35 Stat. 782, and amended section 1 of Act Feb. 28, 1891, c. 383, which had amended section 1 of the General Allotment Act of Feb. 8, 1887, c. 119, and also amended section 4 of said Act Feb. 28, 1891, c. 383. Said amendments are incorporated in the sections so amended, respectively, as set forth ante, §§ 4195, 4199.

Section 18 of the act amending a previous provision as to the use of proceeds of certain lands, is omitted, as special, only.

Sections 19 and 20 of the act repealed R. S. §§ 468, 469, 2091, and Act March 3, 1875, c. 132, § 8, 18 Stat. 450, Act March 2, 1895, c. 188, § 8, 28 Stat. 908, Act March 8, 1901, c. 832, § 8, 31 Stat. 1085, and Act May 27, 1902, c. 888, § 6, 32 Stat. 274, which required various reports and accounts of expenditures, disbursements, distribution of Indian supplies, etc.

Section 21 of the act, relating to the disposition of the proceeds of sale of certain lands, is omitted, as special only.

Section 22 of the act amended Act July 1, 1898, c. 545, § 6, authorizing (1696)
removal of Government property not required for use on Indian reservations, and is incorporated in the section so amended, as set forth ante, § 4115.

Section 28 of the act, requiring purchases of Indian supplies to be made in conformity with R. S. § 3709, is set forth post, § 6832.

Sections 24–30 of the act, relating to various particular tracts of land, etc., are omitted, as special only.

Section 31 of the act, authorizing allotments within national forests to Indians occupying, etc., lands therein, is set forth ante, § 4200.

Section 32 of the act, relating to titles under deeds of tribal lands in the Five Civilized Tribes issued to persons deceased, is omitted, as special only.

Section 33 of the act, providing that it shall not apply to the Osage Indians, nor to the Five Civilized Tribes, in Oklahoma, except as provided in section 32, is set forth post, § 4234.

§ 4227. (Act June 30, 1913, c. 4, § 1.) Deduction for cost of determining heirs of deceased allottee from proceeds of sale of lands or trust funds of estate; accounting and report thereof.

Hereafter upon the determination of the heirs of a deceased Indian by the Secretary of the Interior there shall be paid by such heirs or from the estate of such deceased Indian or deducted from the proceeds from the sale of the land of the deceased allottee or from any trust funds belonging to the estate of the decedent, the sum of $15, to cover the cost of determining the heirs to the estate of the said deceased allottee, which amount shall be accounted for and paid into the Treasury of the United States and a report made annually to Congress by the Secretary of the Interior on or before the first Monday in December of all moneys collected and deposited as herein directed. (38 Stat. 80.)

This was a proviso annexed to an appropriation for determining the heirs of deceased Indian allottees in the Indian appropriation act for the fiscal year 1914, cited above.

Appropriations for such purpose are made in the annual Indian appropriation acts. The provision for the fiscal year 1914 was by Act June 30, 1913, c. 4, § 1, 38 Stat. 80.

Provisions for determining such heirs were made by Act June 25, 1910, c. 431, § 1, ante, § 4226.

§ 4228. (Act June 25, 1910, c. 431, § 2, as amended, Act Feb. 14, 1913, c. 55.) Disposal by will of allotments held under trust or other patent containing restrictions, or of moneys, etc., held in trust; approval of will required; trust or restrictive period not terminated thereby; sale of lands, issue of patents in fee to devisees, payment of moneys to legatee, etc.; certain tribes excepted.

Any persons of the age of twenty-one years having any right, title, or interest in any allotment held under trust or other patent containing restrictions on alienation or individual Indian moneys or other property held in trust by the United States shall have the right prior to the expiration of the trust or restrictive period, and before the issuance of a fee simple patent or the removal of restrictions, to dispose of such property by will, in accordance with regulations to be prescribed by the Secretary of the Interior: Provided, however, That no will so executed shall be valid or have any force or effect unless and until it shall have been approved by
§ 4228

INDIANS

(Tit. 28)

the Secretary of the Interior: Provided further, That the Secretary of the Interior may approve or disapprove the will either before or after the death of the testator, and in case where a will has been approved and it is subsequently discovered that there has been fraud in connection with the execution or procurement of the will the Secretary of the Interior is hereby authorized within one year after the death of the testator to cancel the approval of the will, and the property of the testator shall thereupon descend or be distributed in accordance with the laws of the State wherein the property is located: Provided further, That the approval of the will and the death of the testator shall not operate to terminate the trust or restrictive period, but the Secretary of the Interior may, in his discretion, cause the lands to be sold and the money derived therefrom, or so much thereof as may be necessary, used for the benefit of the heir or heirs entitled thereto, remove the restrictions, or cause patent in fee to be issued to the devisee or devisees, and pay the moneys to the legatee or legatees either in whole or in part from time to time as he may deem advisable, or use it for their benefit: Provided also, That sections one and two of this Act shall not apply to the Five Civilized Tribes or the Osage Indians. (36 Stat. 856. 37 Stat. 678.)

This section was part of the act to provide for determining the heirs of, and for the disposition and sale of allotments of, deceased Indians, etc., first cited above.

The section, as originally enacted, was as follows:

"Any Indian of the age of twenty-one years, or over, to whom an allotment of land has been or may hereafter be made, shall have the right, prior to the expiration of the trust period and before the issue of a fee simple patent, to dispose of such allotment by will, in accordance with rules and regulations to be prescribed by the Secretary of the Interior: Provided, however, That no will so executed shall be valid or have any force or effect unless and until it shall have been approved by the Commissioner of Indian Affairs and the Secretary of the Interior: Provided further, That sections one and two of this Act shall not apply to the State of Oklahoma."

It was amended by Act Feb. 14, 1913, c. 55, entitled, "An act regulating Indian allotments disposed of by will," also cited above, to read as set forth here.

See notes to section 1 of the act, ante, § 4226.

§ 4229. (Act June 25, 1910, c. 431, § 3.) Surrender of allotments by relinquishment for benefit of children.

In any case where an Indian has an allotment of land, or any right, title, or interest in such an allotment, the Secretary of the Interior, in his discretion, may permit such Indian to surrender such allotment, or any right, title, or interest therein, by such formal relinquishment as may be prescribed by the Secretary of the Interior, for the benefit of any of his or her children to whom no allotment of land shall have been made; and thereupon the Secretary of the Interior shall cause the estate so relinquished to be allotted to such child or children subject to all conditions which attached to it before such relinquishment. (36 Stat. 856.)

See notes to section 1 of this act, ante, § 4226.

(1698)
§ 4230. (Act June 25, 1910, c. 431, § 7.) Sale of timber on unallotted lands of reservations; use of proceeds; certain states excepted.

The mature living and dead and down timber on unallotted lands of any Indian reservation may be sold under regulations to be prescribed by the Secretary of the Interior, and the proceeds from such sales shall be used for the benefit of the Indians of the reservation in such manner as he may direct: Provided, That this section shall not apply to the States of Minnesota and Wisconsin. (36 Stat. 857.)

See notes to section 1 of this act, ante, § 4226.

§ 4231. (Act June 25, 1910, c. 431, § 8.) Sale of timber on allotments held under trust or other patents containing restrictions; use of proceeds.

The timber on any Indian allotment held under a trust or other patent containing restrictions on alienations, may be sold by the allottee with the consent of the Secretary of the Interior and the proceeds thereof shall be paid to the allottee or disposed of for his benefit under regulations to be prescribed by the Secretary of the Interior. (36 Stat. 857.)

See notes to section 1 of this act, ante, § 4226.


That the Secretary of the Interior be, and he is hereby, authorized, whenever in his opinion it shall be conducive to the best welfare and interest of the Indians living within any Indian village on any of the Indian reservations in the State of Washington, to issue a patent to each of said Indians for the village or town lot occupied by him, which patent shall contain restrictions against the alienation of the lot described therein to persons other than members of the tribe, except on approval of the Secretary of the Interior; and if any such Indian shall die subsequent to the approval of this Act, and before receiving patent to the lot occupied by him, the lot to which such Indian would have been entitled if living shall be patented in his name and shall be disposed of as provided for in section one of this Act. (36 Stat. 858.)

See notes to section 1 of this act, ante, § 4226.

§ 4233. (Act June 25, 1910, c. 431, § 14.) Cancellation of trust patents for allotments within power or reservoir sites or reservation for irrigation purposes; reimbursement for improvements; lieu allotments.

The Secretary of the Interior, after notice and hearing, is hereby authorized to cancel trust patents issued to Indian allottees for allotments within any power or reservoir site and for allotments or such portions of allotments as are located upon or include lands set aside, reserved, or required within any Indian reservation for irrigation purposes under authority of Congress: Provided, That any Indian allottee whose allotment shall be so canceled shall be
reimbursed for all improvements on his canceled allotment, out of any moneys available for the construction of the irrigation project for which the said power or reservoir site may be set aside: Provided, further, That any Indian allottee whose allotment, or part thereof, is so canceled shall be allotted land of equal value within the area subject to irrigation by any such project. (36 Stat. 859.)

See notes to section 1 of this act, ante, § 4226.

The preceding section of the act, providing for withdrawal from location, entry, etc., and for reservation of lands within Indian reservations, for power or reservoir sites, irrigation projects, etc., is set forth post, § 4526.

Previous provisions for irrigation of allotted lands, in carrying out irrigation projects under the Reclamation Act, of Act March 3, 1902, c. 283, are set forth ante, § 4205.

§ 4234. (Act June 25, 1910, c. 431, § 33.) Provisions of act not to apply to certain tribes.

The provisions of this Act shall not apply to the Osage Indians, nor to the Five Civilized Tribes, in Oklahoma, except as provided in section thirty-two. (36 Stat. 863.)

This was the last section of the act to provide for determining the heirs of, and for disposition and sale of allotments of, deceased Indians, etc., cited above.

See notes to section 1 of the act, ante, § 4226.

§ 4235. (Act June 21, 1906, c. 3504.) Lands acquired under Allotment Act not liable for debts prior to final patent therefor.

No lands acquired under the provisions of this Act shall, in any event, become liable to the satisfaction of any debt contracted prior to the issuing of the final patent in fee therefor. (34 Stat. 327.)

This provision and the three other paragraphs next following were added to the General Allotment Act of Feb. 8, 1887, c. 119, referred to in this provision as "this Act," by amendment by the Indian appropriation act for the fiscal year 1907, cited above.

§ 4236. (Act June 21, 1906, c. 3504.) Moneys from lease or sale of lands held in trust not liable for debts contracted during trust period or during minority of Indian.

No money accruing from any lease or sale of lands held in trust by the United States for any Indian shall become liable for the payment of any debt of, or claim against, such Indian contracted or arising during such trust period, or, in case of a minor, during his minority, except with the approval and consent of the Secretary of the Interior. (34 Stat. 327.)

This was a further provision added to the General Allotment Act of Feb. 8, 1887, c. 119, by amendment by the Indian appropriation act for the fiscal year 1907, cited above.

See note to preceding paragraph so added, ante, § 4235.

§ 4237. (Act June 21, 1906, c. 3504.) Interest on moneys from proceeds of sale of lands, held for minors.

The shares of money due minor Indians as their proportion of the proceeds from the sale of ceded or tribal Indian lands, whenever such shares have been, or shall hereafter be, withheld from their parents, legal guardians, or others, and retained in the United States Treasury by direction of the Secretary of the Interior, shall

(1700)
draw interest at the rate of three per centum per annum, unless
otherwise provided for, from the period when such proceeds have
been or shall be distributed per capita among the members of the
tribe of which such minor is a member; and the Secretary of the
Treasury is hereby authorized and directed to allow interest on
such unpaid amounts belonging to said minors as shall be certi-
fied by the Secretary of the Interior as entitled to draw interest un-
der this Act. (34 Stat. 327.)

See notes to preceding paragraph of this act, ante, § 4285.

§ 4238. (Act June 21, 1906, c. 3504.) Sale of allotted lands within
reclamation projects; use of proceeds.

Any Indian allotted lands under any law or treaty without the
power of alienation, and within a reclamation project approved by the
Secretary of the Interior, may sell and convey any part thereof, un-
der rules and regulations prescribed by the Secretary of the Inter-
ior, but such conveyance shall be subject to his approval, and
when so approved shall convey full title to the purchaser the same
as if final patent without restrictions had been issued to the al-
lottee: Provided, That the consideration shall be placed in the
Treasury of the United States, and used by the Commissioner of In-
dian Affairs to pay the construction charges that may be assessed
against the unsold part of the allotment, and to pay the mainte-
nance charges thereon during the trust period, and any surplus
shall be a benefit running with the water right to be paid to the
holder thereof. (34 Stat. 327.)

See notes to preceding paragraph of this act, ante, § 4285.

§ 4239. (Act March 1, 1907, c. 2285.) Payment of taxes on allot-
ted lands from share of allottee in tribal funds.

In any case where the restrictions as to alienation have been re-
moved with respect to any Indian allottee, or as to any portion of
the lands of any Indian allottee, and such allottee as an individual,
or as a member of any tribe, has an interest in any fund held by
the United States beyond the amount by law chargeable to such
Indian or tribe on account of advances, the Commissioner of In-
dian Affairs is hereby authorized, prior to the date at which any
penalties for the nonpayment of taxes would accrue under the laws
of the State or Territory in which such land is situated, to pay such
taxes and charge the amount thereof to such allottee, to be deduct-
ed from the share of such allottee in the final distribution or pay-
ment to him from such fund: Provided, That no such payment
shall be made by said Commissioner where it is in excess of the
amount which will ultimately be due said allottee. (34 Stat. 1016.)

This was a provision of the Indian appropriation act for the fiscal year
1906, cited above.

§ 4240. (Act March 3, 1901, c. 832, § 3.) Condemnation of allotted
lands for public purposes under laws of States, etc.

Lands allotted in severalty to Indians may be condemned for
any public purpose under the laws of the State or Territory where
located in the same manner as land owned in fee may be con-

(1701)
demned, and the money awarded as damages shall be paid to the allottee. (31 Stat. 1084.)

This was the concluding provision of section 8 of the Indian appropriation act for the fiscal year 1902, cited above.

The preceding provisions of this section, relating to grants of rights of way for telephone and telegraph lines through Indian reservations, etc., are set forth ante, § 4191.

Permission to State or local authorities for the opening, etc., of public highways, through Indian reservations or lands allotted to Indians in severality, was authorized by section 4 of this act, ante, § 4194.

(1702)
TITLE XXIX
IMMIGRATION

(R.S. §§ 2158-2164. In this Title.)

This title, as enacted in the Revised Statutes, was not divided into chapters, and contained only R.S. §§ 2158-2163, post, §§ 4342-4347, which related to the cooly-trade, and R.S. § 2164, post, § 4241, which related to taxation by the States of immigrants from foreign countries. For convenience, the latter section, and subsequent provisions which relate to the regulation and restriction of immigration in general, are placed in Chapter A; provisions which relate to the exclusion of Chinese, in Chapter B; and the provisions of R.S. §§ 2158-2163, and subsequent provisions which relate to the cooly-trade, in Chapter C.

Chap. Sec.
A. Regulation and restriction of immigration in general................. 4241
B. Exclusion of Chinese.............................................. 4290
C. The cooly-trade.................................................. 4342

CHAPTER A

Regulation and Restriction of Immigration in General

The provisions of various acts relating to Immigration subsequent to the enactment of the Revised Statutes and prior to March 3, 1903, were superseded almost entirely by the more comprehensive provisions of the same nature contained in the Immigration Act of March 3, 1903, c. 1012, 32 Stat. 1213. But that act, except section 84 thereof, which related to a different subject, was expressly repealed and the provisions of the repealed sections relating to immigration, with some changes and additions, were re-enacted in sections designated by the same numbers, respectively, by the Immigration Act of Feb. 20, 1907, c. 1134, 34 Stat. 598.

Before said Act March 3, 1903, c. 1012, the provisions for the execution of said previous acts by the Secretary of the Treasury, and for regulations, etc., to be prescribed by him, had been superseded by the transfer of the immigration service, and of jurisdiction and powers over immigration, from the Treasury Department to the Department of Commerce and Labor, by the act establishing that department, Act Feb. 14, 1903, c. 592, §§ 4, 7, 10, ante, §§ 587-599. And the words "Secretary of the Treasury," wherever used in said Act March 3, 1903, or in amendments thereto, or in prior acts in relation to alien immigration, were stricken out, and the words "Secretary of Commerce and Labor" inserted in lieu thereof, by Res. April 28, 1904, No. 84, 33 Stat. 591.

The Commissioner-General of Immigration, the commissioners of immigration, the Bureau of Immigration, and the immigration service at large, were transferred from the Department of the Treasury to the Department of Commerce and Labor, and the jurisdiction, supervision, and control possessed and exercised by the Department of the Treasury over the immigration of aliens were also transferred and vested in the Department of Commerce and Labor, and all duties performed and all power and authority possessed or exercised by the head of any executive department in and over any bureau, office, etc., so transferred, or any business arising therefrom, etc., was to be vested in and exercised by the head of said Department of Commerce and
IMMIGRATION

Labor, by the act establishing that department, Act Feb. 14, 1903, c. 552, §§ 4, 7, 10, ante, §§ 887-890.

But thereafter the Commissioner-General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalisation, and the Immigration Service at large were transferred to the Department of Labor from the Department of Commerce and Labor, and all duties performed and all power and authority possessed or exercised by the head of any executive department in and over any bureau, office, etc., so transferred, or any business arising therefrom, etc., was to be vested in, and exercised by the head of the Department of Labor, by the act establishing that department, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

The immigration laws of the United States in force in the Philippine Islands were to be administered by the officers of the general government thereof, by Act March 18, 1904, c. 716, § 1, 33 Stat. 130, which was superseded by a similar provision in Act Feb. 6, 1905, c. 453, § 6, ante, § 2911.

All laws affecting entry of persons from foreign countries apply to persons coming from Canal Zone, Isthmus of Panama, by Act March 2, 1905, c. 1311, post, § 5223.

This chapter includes, principally, provisions of said Immigration Act of Feb. 20, 1907, c. 1134, relating to regulation of immigration in general and to the Immigration Service, with previous provisions relating thereto which remain in force, and subsequent acts amendatory thereof or additional thereto.

Sec. 4241. No charge upon particular persons immigrating, etc.

4242. Tax on aliens entering United States; immigrant fund; lien on vessels; prevention of use of foreign passports to detriment of labor conditions in continental territory of United States.

4243. Head tax on aliens and other moneys received under immigration laws to be covered into Treasury as miscellaneous receipts.

4244. Classes of aliens excluded.

4245. Contracts for labor or service of aliens, made previous to immigration or importation, void.

4246. Payment to informer of share of penalty for violation of contract labor law.

4247. Importation of aliens for prostitution or other immoral purpose forbidden; punishment; jurisdiction; deportation; punishment for attempt to return; deportation after expiration of sentence; testimony of husband or wife admissible.

4248. Prepaying transportation or assisting, etc., importation or migration of contract laborers a misdemeanor.

4249. Foreign exhibitors, etc., at fair or exposition authorized by Congress, not prevented from bringing into United States, under contract, employees for preparation for installing or conducting exhibits or business under concession or privilege.

4250. Penalty for violations of provisions.

4251. Advertisements, etc., promising employment to aliens; penalties.

4252. Solicitation of immigration by transportation companies, owners of vessels, etc.; penalties.

4253. Bringing into or landing in United States aliens not duly admitted or not entitled to enter, punishable.

4254. Bringing into United States aliens subject to disability or afflicted with tuberculosis or leprous or dangerous contagious disease.

4255. Decision of board of special inquiry final as to aliens affected with tuberculosis, or with leprous or dangerous contagious disease, or with mental or physical disability.

4256. Exclusion of alien accompanying rejected helpless alien requiring protection.

4257. Posting and notification of immigration laws by agents of steamship companies, etc.; certificate of compliance; penalty.

4258. Lists of alien passengers arriving or departing to be delivered by masters of vessels; description and statements in lists; disposition of lists.

4259. Requirement of outward alien manifests not to apply to pas-

(1704)
Ch. A)

IMMIGRATION

Sec.

4260. Grouping of alien passengers in lists; identification tickets; verification of lists and certificate of medical examination by officer of vessel.

4261. Verification of lists by surgeon of vessel.

4262. Failure to furnish lists of alien passengers; penalty.

4263. Inspection of alien passengers upon arrival.

4264. Expenses of removal and detention of aliens pending inspection to be paid by transportation companies.

4265. Medical examination of alien passengers.

4266. Expenses of medical examination of alien passengers; repeal in part of Act Feb. 20, 1907, c. 1134, § 17.

4267. Owners, officers, etc., of vessel or transportation line bringing alien to prevent landing at time or place other than as designated; negligent failure to comply with requirements punishable; alien unlawfully landed to be deported.

4268. Immediate deportation of alien unlawfully brought to this country; cost of maintenance and return; refusal to receive back on vessel or to pay cost, punishable; suspension of deportation of alien whose testimony is necessary in prosecution; aliens excluded as diseased not to be landed for medical treatment.

4269. Deportation of aliens entering United States in violation of law or becoming public charges; payment of expense of deportation; bond for release of alien pending disposal of case.

4270. Deportation of alien found in United States in violation of law, etc.; failure or refusal of masters, agents, owners, or consignees of vessels to comply with order for deportation punishable; aliens requiring personal care and attendance.

4271. Commissioners of immigration; appointment.

Sec.

4272. Commissioners of immigration; duties.

4273. Immigrant inspectors and other officers, etc., appointment, compensation, etc.; duties and powers of immigration officers; decisions.

4274. Boards of special inquiry; appointment or designation; authority; hearings; records, decisions and appeals.

4275. Admission of aliens liable to be excluded, on giving bond of indemnity against becoming public charge; suits on bonds.

4276. Compromise of suits for violations of act.

4277. Jurisdiction of courts.

4278. Interior immigrant stations.

4279. Disposal of privileges at immigrant stations; sale of intoxicating liquors forbidden.

4280. Jurisdiction of state and local officers and courts over immigrant stations.

4281. Rules for entry and inspection of aliens along the borders of Canada and Mexico; contracts with foreign transportation lines.

4282. Construction of term "United States" for purpose of act; aliens coming from Isthmian Canal Zone.


4284. Ports to which aliens to be deported.

4285. Deportation of aliens entering United States except at seaports or places designated by Secretary of Commerce and Labor.

4286. Temporary detention and admission or deportation, in case of contagious disorder, of wife or minor child of alien resident who has filed declaration of intention to become citizen.

4287. Persons disbelieving in or opposed to all organized government, or advocating the unlawful assaulting or killing of officers of government, not to be permitted to enter; aiding, etc., entry of such person, punishable.

4288. Act not to apply to foreign government officials, etc.

4289. Repeal.

(1705)
§ 4241. (R. S. § 2164.) No charge upon particular persons immigrating, etc.

No tax or charge shall be imposed or enforced by any State upon any person immigrating thereto from a foreign country, which is not equally imposed and enforced upon every person immigrating to such State from any other foreign country.

Act May 31, 1870, c. 114, § 18, 16 Stat. 144.

§ 4242. (Act Feb. 20, 1907, c. 1134, § 1.) Tax on aliens entering United States; immigrant fund; lien on vessels; prevention of use of foreign passports to detriment of labor conditions in continental territory of United States.

There shall be levied, collected, and paid a tax of four dollars for every alien entering the United States. The said tax shall be paid to the collector of customs of the port or customs district to which said alien shall come, or, if there be no collector at such port or district, then to the collector nearest thereto, by the master, agent, owner, or consignee of the vessel, transportation line, or other conveyance or vehicle bringing such alien to the United States. The money thus collected, together with all fines and rentals collected under the laws regulating the immigration of aliens into the United States, shall be paid into the Treasury of the United States, and shall constitute a permanent appropriation to be called the "immigrant fund," to be used under the direction of the Secretary of [Commerce and] Labor to defray the expense of regulating the immigration of aliens into the United States under said laws, including the contract labor laws, the cost of reports of decisions of the Federal courts, and digest thereof, for the use of the Commissioner-General of Immigration, and the salaries and expenses of all officers, clerks, and employees appointed to enforce said laws. The tax imposed by this section shall be a lien upon the vessel, or other vehicle of carriage or transportation bringing such aliens to the United States, and shall be a debt in favor of the United States against the owner or owners of such vessel, or other vehicle, and the payment of such tax may be enforced by any legal or equitable remedy. The said tax shall not be levied upon aliens who shall enter the United States after an uninterrupted residence of at least one year, immediately preceding such entrance, in the Dominion of Canada, Newfoundland, the Republic of Cuba, or the Republic of Mexico, nor upon otherwise admissible residents of any possession of the United States, nor upon aliens in transit through the United States, nor upon aliens who have been lawfully admitted to the United States and who later shall go in transit from one part of the United States to another through foreign contiguous territory: Provided, That the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of [Commerce and] Labor, by agreement with transportation lines, as provided in section thirty-two of this Act, may arrange in some other manner for the payment of the tax imposed by this section upon any or all aliens seeking admission from foreign contiguous territory: Provided further, That if in any fiscal year the amount of money collected under the provisions of this section shall exceed two million five hundred thousand dollars, the excess above (1706)
that amount shall not be added to the "immigrant fund." Provided further, That the provisions of this section shall not apply to aliens arriving in Guam, Porto Rico, or Hawaii; but if any such alien, not having become a citizen of the United States, shall later arrive at any port or place of the United States on the North American Continent the provisions of this section shall apply: Provided further, That whenever the President shall be satisfied that passports issued by any foreign government to its citizens to go to any country other than the United States or to any insular possession of the United States or to the Canal Zone are being used for the purpose of enabling the holders to come to the continental territory of the United States to the detriment of labor conditions therein, the President may refuse to permit such citizens of the country issuing such passports to enter the continental territory of the United States from such other country or from such insular possessions or from the Canal Zone. (34 Stat. 898.)

This was the first section of the Immigration Act of 1907, entitled "An act to regulate the immigration of aliens into the United States."

The words "Commerce and," inclosed in brackets where they occur twice in this section, were superseded by the transfer of the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 8, 8, ante, §§ 932, 934, 940.

Sections 2-21, 28-27, 29-38, 41, and 43 of this act, are set forth post. §§ 4244, 4247, 4245, 4250-4255, 4255, 4250-4255, 4255, 4267-4270, 4272-4277, 4279-4289.

Section 22 of the act, relating to the duties, etc., of the Commissioner General of Immigration, is set forth ante, § 959.

Section 28 of the act, containing saving provisions as to prosecutions, etc., pending at the time of its taking effect, is omitted, as temporary merely.

Section 30 of the act provided for the creation of a commission to inquire into the subject of immigration and report to Congress its conclusions, etc. The commission was required to complete its work and make its final report and cease on the first Monday of December, 1910, by Act March 4, 1909, c. 299, § 1, 35 Stat. 892, and Act Feb. 25, 1910, c. 62, 38 Stat. 215. The provisions relating to it are omitted, as temporary merely.

Section 40 of the act, relating to the Division of Information in the Bureau of Immigration and Naturalization, is set forth ante, § 960.

Section 42 of the act prescribed regulations, to take effect January 1, 1909, for the carriage of immigrant passengers on steamships or other vessels, similar to and superseding those contained in Act Aug. 2, 1882, c. 374, § 1, 22 Stat. 158; but, by section 43 of this act, post, § 4289, said section 1 of Act Aug. 2, 1882, c. 374, was not repealed thereby prior to January 1, 1909. But section 42, and so much of sections 43 and 44 of this act as provided for the repeal of said section 1 of Act Aug. 2, 1882, c. 374, were themselves expressly repealed by Act Dec. 19, 1908, c. 6, § 2, taking effect January 1, 1909, set forth post, § 7908.

Nothing in this act is to be construed as permitting an alien leaving the Isthmian Canal Zone to enter any other place under the jurisdiction of the United States under any other conditions than those applicable to all aliens, by a provision of section 33 of this act, post, § 4282.

All laws affecting entry of persons into the United States from foreign countries were to apply to persons coming from the Canal Zone, Isthmus of Panama, by Act March 2, 1906, c. 1311, post, § 5323.

Previous provisions requiring payment of head-money for each alien passenger, similar to some extent to those of this section, were contained in
§ 4242

IMMIGRATION

(Tit. 29)

Act Aug. 3, 1882, c. 376, § 1, 22 Stat. 214, Act June 26, 1884, c. 121, § 22, 23 Stat. 58, and Act Aug. 18, 1894, c. 301, § 1, 28 Stat. 390, but were superseded by the provisions of Act March 3, 1903, c. 1012, § 1, 32 Stat. 1213, which were re-enacted substantially in this section, and were repealed by section 43 of this act, post, § 4229.

The refunding of head tax erroneously collected under said Act March 3, 1903, c. 1012, § 1, was authorised by a provision of Act Feb. 3, 1905, c. 297, § 1, ante, § 938.

The head tax collected under this section, together with all moneys received under the laws regulating the immigration of aliens, were to be covered into the Treasury to the credit of "miscellaneous receipts," instead of constituting the "immigrant fund," established by this section, by a provision of Act March 4, 1909, c. 299, § 1, post, § 4243.

§ 4243. (Act March 4, 1909, c. 299, § 1.) Head tax on aliens and other moneys received under immigration laws to be covered into Treasury as miscellaneous receipts.

On and after July first, nineteen hundred and nine, all head tax collected pursuant to the provisions of section one of the said Act of February twentieth, nineteen hundred and seven, together with all fines, rentals collected, and moneys received from other sources under the laws regulating the immigration of aliens into the United States, shall be covered into the Treasury to the credit of miscellaneous receipts. (35 Stat. 982.)

This was a proviso annexed to an appropriation for expenses of regulating immigration in the sundry civil appropriation act for the fiscal year 1910, cited above.

Act Feb. 20, 1907, c. 1134, § 1, mentioned in this provision, is set forth ante, § 4242.

Moneys collected under the immigration laws as duty or head tax on alien immigrants coming into the Philippine Islands were not to be covered into the general fund of the Treasury of the United States, but paid into the treasury of said islands, to be used and expended for the government and benefit of said islands, by Act Feb. 6, 1905, c. 453, § 6, ante, § 3905.

§ 4244. (Act Feb. 20, 1907, c. 1134, § 2, as amended, Act March 26, 1910, c. 128, § 1.) Classes of aliens excluded.

The following classes of aliens shall be excluded from admission into the United States: All idiots, imbeciles, feeble-minded persons, epileptics, insane persons, and persons who have been insane within five years previous; persons who have had two or more attacks of insanity at any time previously; paupers; persons likely to become a public charge; professional beggars; persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease; persons not comprehended within any of the foregoing excluded classes who are found to be and are certified by the examining surgeon as being mentally or physically defective, such mental or physical defect being of a nature which may affect the ability of such alien to earn a living; persons who have been convicted of or admit having committed a felony or other crime or misdemeanor involving moral turpitude; polygamists, or persons who admit their belief in the practice of polygamy; anarchists, or persons who believe in or advocate the overthrow by force or violence of the Government of the United States, or of all government, or of all forms of law, or the assassination of public officials; prostitutes, or women or girls coming into the United States for the purpose of prostitution or for any other

(1708)
immoral purpose; persons who are supported by or receive in whole or in part the proceeds of prostitution; persons who procure or attempt to bring in prostitutes or women or girls for the purpose of prostitution or for any other immoral purpose; persons hereinafter called contract laborers, who have been induced or solicited to migrate to this country by offers or promises of employment or in consequence of agreements, oral, written or printed, express or implied, to perform labor in this country of any kind, skilled or unskilled; those who have been, within one year from the date of application for admission to the United States, deported as having been induced or solicited to migrate as above described; any person whose ticket or passage is paid for with the money of another, or who is assisted by others to come, unless it is affirmatively and satisfactorily shown that such person does not belong to one of the foregoing excluded classes, and that said ticket or passage was not paid for by any corporation, association, society, municipality, or foreign government, either directly or indirectly; all children under sixteen years of age, unaccompanied by one or both of their parents, at the discretion of the Secretary of [Commerce and] Labor or under such regulations as he may from time to time prescribe: Provided, That nothing in this Act shall exclude, if otherwise admissible, persons convicted of an offense purely political, not involving moral turpitude: Provided further, That the provisions of this section relating to the payments for tickets or passage by any corporation, association, society, municipality, or foreign government shall not apply to the tickets or passage of aliens in immediate and continuous transit through the United States to foreign contiguous territory: And provided further, That skilled labor may be imported if labor of like kind unemployed can not be found in this country: And provided further, That the provisions of this law applicable to contract labor shall not be held to exclude professional actors, artists, lecturers, singers, ministers of any religious denomination, professors for colleges or seminaries, persons belonging to any recognized learned profession, or persons employed strictly as personal or domestic servants. (34 Stat. 898. 36 Stat. 263.)

See notes to section 1 of this act, ante, § 4242.

This section, as originally enacted, did not contain, in the description of classes of aliens excluded, the words "persons who are supported by or receive in whole or in part the proceeds of prostitution." That clause was inserted by amendment by Act March 26, 1910, c. 128, § 1, last cited above.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Previous provisions defining the classes of aliens, other than Chinese, excluded from admission to the United States, were contained in Act March 8, 1875, c. 141, §§ 3, 5, 18 Stat. 477, Act Aug. 3, 1882, c. 376, § 2, 22 Stat. 214. Act Feb. 26, 1888, c. 184, §§ 1, 5, 8, 23 Stat. 332, 333, and Act March 8, 1891, c. 551, § 1, 26 Stat. 1084, but were superseded by the provisions of Act March 8, 1903, c. 1012, § 2, 32 Stat. 1214, which were re-enacted (1709)
§ 4244. IMMIGRATION

substantially in this section, and were repealed by section 43 of this act, post, § 4289.

To prepay the transportation or to assist or encourage the importation or migration into the United States of any contract laborer not exempted under the last two provisos of this section, is a misdemeanor, by section 4 of this act, post, § 4248, and a penalty therefore was prescribed by section 6 of this act, post, § 4251.

Any alien coming to this country in consequence of an advertisement of a promise of employment printed and published in a foreign country is to be treated as coming under a promise or agreement as contemplated in this section, by section 6 of this act, post, § 4252.

No person who disbelieves in or who is opposed to all organised government, or who is a member of or affiliated with any organisation entertaining and teaching such disbelief or opposition, or who advocates, etc., the unlawful assailing or killing of officers of government, is to be permitted to enter the United States or any Territory or place subject to the jurisdiction thereof, by section 38 of this act, post, § 4257.

§ 4245. (Act Feb. 26, 1885, c. 164, § 2.) Contracts for labor or service of aliens, made previous to migration or importation, void.

All contracts or agreements, express or implied, paro, or special, which may hereafter be made by and between any person, company, partnership, or corporation, and any foreigner or foreigners, alien or aliens, to perform labor or service or having reference to the performance of labor or service by any person in the United States, its Territories, or the District of Columbia previous to the migration or importation of the person or persons whose labor or service is contracted for into the United States, shall be utterly void and of no effect. (23 Stat. 332.)

This section was part of an act entitled "An act to prohibit the Importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia." It was not directly superseded by the Immigration Act of March 5, 1903, c. 1012, or by the Immigration Act of Feb. 20, 1907, c. 1134.

This act was amended, so as to authorize payment, to an informer of violations of the act, of a share of the penalties recovered in consequence of the information furnished, by a provision of Act Oct. 19, 1888, c. 1210, § 1, post, § 4246.

§ 4246. (Act Oct. 19, 1888, c. 1210, § 1, as amended, Res. April 26, 1904, No. 34.) Payment to informer of share of penalty for violation of contract labor law.

That the act approved February twenty-sixth, eighteen hundred and eighty-five, entitled "An act to prohibit the importation and migration of foreigners and aliens under contract or agreement to perform labor in the United States, its Territories, and the District of Columbia," be, and the same is hereby, amended so as to authorize the Secretary of [Commerce and] Labor to pay to an informer who furnishes original information that the law has been violated such a share of the penalties recovered as he may deem reasonable and just, not exceeding fifty per centum, where it appears that the recovery was had in consequence of the information thus furnished. (25 Stat. 566. 33 Stat. 591.)

This was a provision of the deficiency appropriation act for the fiscal year 1888, and prior years, cited above.

Act Feb. 20, 1886, c. 164, mentioned in and amended by this section, section (1710)
2 of which is set forth ante, § 4245, was almost entirely superseded by the
Immigration Act of 1906, which was itself repealed by the Immigration Act
of 1907, but the provisions of this section were not directly superseded by
either of those Acts.

This section was amended by striking out the words "Secretary of the
Treasury" as they appeared in the original act, and inserting in lieu thereof
the words "Secretary of Commerce and Labor," by Res. April 29, 1904, No. 84,
33 Stat. 591, ante, § 987.

The words "Commerce and," part of the words inserted by said amend-
ment, and inclosed in brackets in this section, were superseded by the trans-
fer to the head of the Department of Labor of all duties performed and
all power and authority possessed by the Secretary of Commerce and Labor
over the Commissioner General of Immigration, the commissioners of Immigra-
tion, the Bureau of Immigration and Naturalization, and the Immigration
Service at large, by the act creating the Department of Labor, Act March
4, 1918, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

§ 4247. (Act Feb. 20, 1907, c. 1134, § 3, as amended, Act March
26, 1910, c. 128, § 2.) Importation of aliens for prostitution
or other immoral purpose forbidden; punishment; jurisdic-
tion; deportation; punishment for attempt to return; de-
portation after expiration of sentence; testimony of husband
or wife admissible.

The importation into the United States of any alien for the
purpose of prostitution or for any other immoral purpose is here-
by forbidden; and whoever shall, directly or indirectly, import,
or attempt to import, into the United States, any alien for the pur-
purpose of prostitution or for any other immoral purpose, or whoever
shall hold or attempt to hold any alien for any such purpose in pur-
suance of such illegal importation, or whoever shall keep, maintain,
control, support, employ, or harbor in any house or other place, for
the purpose of prostitution or for any other immoral purpose, in pur-
suance of such illegal importation, any alien, shall, in every such case
be deemed guilty of a felony, and on conviction thereof be imprisoned
not more than ten years and pay a fine of not more than five thousand
dollars. Jurisdiction for the trial and punishment of the felonies here-
inbefore set forth shall be in any district to or into which said alien is
brought in pursuance of said importation by the person or persons ac-
cused, or in any district in which a violation of any of the foregoing
provisions of this section occur. Any alien who shall be found an
inmate of or connected with the management of a house of prostitu-
tion or practicing prostitution after such alien shall have entered the
United States, or who shall receive, share in, or derive benefit from
any part of the earnings of any prostitute; or who is employed by,
in, or in connection with any house of prostitution or music or dance
hall or other place of amusement or resort habitually frequented by
prostitutes, or where prostitutes gather, or who in any way assists,
protects, or promises to protect from arrest any prostitute, shall be
deemed to be unlawfully within the United States and shall be deported
in the manner provided by sections twenty and twenty-one of this Act.

Any alien who shall, after he has been debarred or deported in
pursuance of the provisions of this section, attempt thereafter to re-
turn to or to enter the United States shall be deemed guilty of a mis-
demeanor, and shall be imprisoned for not more than two years. Any

(1711)
§ 4247 IMMIGRATION

alien who shall be convicted under any of the provisions of this section shall, at the expiration of his sentence, be taken into custody and returned to the country whence he came, or of which he is a subject or a citizen in the manner provided in sections twenty and twenty-one of this Act. In all prosecutions under this section the testimony of a husband or wife shall be admissible and competent evidence against a wife or husband. (34 Stat. 899. 36 Stat. 264.)

See notes to section 1 of this act, ante, § 4242.

The amendment of this section by Act March 28, 1910, consisted in the omission of the words "woman or girl" wherever they occurred after the words "any alien," in the increase of the maximum term of imprisonment from five to ten years, in the addition of the provisions concerning jurisdiction and affecting those receiving the earnings of a prostitute or being employed in resorts frequented by them, and in the addition of the last three sentences of the section, beginning with the words "Any alien who shall, after he has been debarred," making the section read as set forth here.

Previous provisions similar, to some extent, to those of this section, were made by Act March 3, 1875, c. 141, § 3, 18 Stat. 477, but were superseded by the provisions of Act March 3, 1903, c. 1012, § 3, 32 Stat. 1214, which were re-enacted, with some additions, in this section, and were repealed by section 43 of this act, post, § 4289.

§ 4248. (Act Feb. 20, 1907, c. 1134, § 4.) Preparing transportation or assisting, etc., importation or migration of contract laborers a misdemeanor.

It shall be a misdemeanor for any person, company, partnership, or corporation, in any manner whatsoever, to prepay the transportation or in any way to assist or encourage the importation or migration of any contract laborer or contract laborers into the United States, unless such contract laborer or contract laborers are exempted under the terms of the last two provisos contained in section two of this Act. (34 Stat. 900.)

See notes to section 1 of this act, ante, § 4242.

A previous provision similar to that of this section was made by Act Feb. 26, 1885, c. 104, § 1, 23 Stat. 332, but was superseded by the provision of Act March 3, 1903, c. 1012, § 4, 32 Stat. 1214, which was re-enacted, with some change, in this section, and was repealed by section 43 of this act, post, § 4289.

A penalty for the violation of the provisions of this section was imposed by section 5 of this act, post, § 4261.

Assisting or encouraging the importation or migration of any alien by a promise of employment through advertisement printed and published in any foreign country is to be deemed a violation of this section, and the penalties imposed by section 6, post, § 4261, are applicable to such a case, by section 6 of this act, post, § 4282. And the soliciting of immigration by transportation companies, owners of vessels, etc., except as permitted, was also subject to the same penalties, by section 7 of this act, post, § 4263.

§ 4249. (Act April 29, 1902, c. 641, § 3, as amended, Res. April 28, 1904, No. 34.) Foreign exhibitors, etc., at fair or exposition authorized by Congress, not prevented from bringing into United States, under contract, employees for preparation for installing or conducting exhibits or business under concession or privilege.

That nothing in the provisions of this Act or any other Act shall be construed to prevent, hinder, or restrict any foreign exhibitor, representative, or citizen of any foreign nation, or the holder, who is

(1712)
a citizen of any foreign nation, of any concession or privilege from any fair or exposition authorized by Act of Congress from bringing into the United States, under contract, such mechanics, artisans, agents, or other employees, natives of their respective foreign countries, as they or any of them may deem necessary for the purpose of making preparation for installing or conducting their exhibits or of preparing for installing or conducting any business authorized or permitted under or by virtue of or pertaining to any concession or privilege which may have been or may be granted by any said fair or exposition in connection with such exposition, under such rules and regulations as the Secretary of [Commerce and] Labor may prescribe, both as to the admission and return of such person or persons. (32 Stat. 177. 33 Stat. 591.)

This section was part of an act re-enacting, extending, and continuing all laws in force prohibiting and regulating the coming of Chinese persons and persons of Chinese descent into the United States, and the residence of such persons therein, cited above. Other sections of the act are set forth under Chapter B, "Exclusion of Chinese," post, §§ 4387-4339.

This section as originally enacted was amended by Res. April 28, 1904, No. 34, cited above, by striking out the words "Secretary of the Treasury," used therein, and inserting in lieu thereof the words "Secretary of Commerce and Labor," as set forth here.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 8, ante, §§ 932, 934, 940.

See notes at beginning of this chapter.

Skilled labor may be imported if labor of like kind unemployed cannot be found in this country, by a proviso annexed to Act Feb. 20, 1907, c. 1134, § 2, ante, § 4244.

§ 4250. (Act Feb. 20, 1907, c. 1134, § 5.) Penalty for violations of provisions.

For every violation of any of the provisions of section four of this Act the persons, partnership, company, or corporation violating the same, by knowingly assisting, encouraging, or soliciting the migration or importation of any contract laborer into the United States shall forfeit and pay for every such offense the sum of one thousand dollars, which may be sued for and recovered by the United States, or by any person who shall first bring his action therefor in his own name and for his own benefit, including any such alien thus promised labor or service of any kind as aforesaid, as debts of like amount are now recovered in the courts of the United States; and separate suits may be brought for each alien thus promised labor or service of any kind as aforesaid. And it shall be the duty of the district attorney of the proper district to prosecute every such suit when brought by the United States. (34 Stat. 900.)

See notes to section 1 of this act, ante, § 4242.

Section 4 of this act, mentioned in this section, is set forth ante, § 4248.

Previous provisions similar to those of this section were contained in Act Feb. 26, 1885, c. 164, § 3, 23 Stat. 333, but were superseded by those of

Comp.St. '13—108

(1713)
§ 4250 IMMIGRATION

Act March 8, 1906, c. 1012, § 5, 32 Stat. 1214, which were re-enacted, substantially, in this section, and were repealed by section 43 of this act, post, § 4289.

The penalties imposed by this section were made applicable to assisting or encouraging the importation or migration of any alien by promise of employment through advertisements in any foreign country by section 6 of this act, post, § 4251.

§ 4251. (Act Feb. 20, 1907, c. 1134, § 6.) Advertisements, etc., promising employment to aliens; penalties.

It shall be unlawful and be deemed a violation of section four of this Act to assist or encourage the importation or migration of any alien by promise of employment through advertisements printed and published in any foreign country; and any alien coming to this country in consequence of such an advertisement shall be treated as coming under promise or agreement as contemplated in section two of this Act, and the penalties imposed by section five of this Act shall be applicable to such a case: Provided, That this section shall not apply to States or Territories, the District of Columbia, or places subject to the jurisdiction of the United States advertising the inducements they offer for immigration thereto, respectively. (34 Stat. 900.)

See notes to section 1 of this act, ante, § 4242.

Sections 2, 4, and 5 of this act, mentioned in this section, are set forth ante, §§ 4244, 4248, 4250.

Previous provisions similar to those of this section were made by Act March 3, 1891, c. 551, § 3, 26 Stat. 1084, but were superseded by those of Act March 3, 1903, c. 1012, § 6, 32 Stat. 1215, which were re-enacted in this section, and were repealed in section 43 of this act, post, § 4289.

The soliciting of immigration by transportation companies, owners of vessels, etc., except as permitted, was subjected to the penalties imposed by this section, by section 7 of this act, post, § 4252.

§ 4252. (Act Feb. 20, 1907, c. 1134, § 7.) Solicitation of immigration by transportation companies, owners of vessels, etc.; penalties.

No transportation company or owner or owners of vessels, or others engaged in transporting aliens into the United States, shall, directly or indirectly, either by writing, printing, or oral representation, solicit, invite, or encourage the immigration of any aliens into the United States, but this shall not be held to prevent transportation companies from issuing letters, circulars, or advertisements, stating the sailings of their vessels and terms and facilities of transportation therein; and for a violation of this provision, any such transportation company, and any such owner or owners of vessels, and all others engaged in transporting aliens into the United States, and the agents by them employed, shall be severally subjected to the penalties imposed by section five of this Act. (34 Stat. 900.)

See notes to section 1 of this act, ante, § 4242.

Section 5 of this act, mentioned in this section, is set forth ante, § 4251.

Previous provisions similar to those of this section were contained in Act March 3, 1891, c. 551, § 4, 26 Stat. 1084, but were superseded by those of Act March 3, 1903, c. 1012, § 7, 32 Stat. 1215, which were re-enacted substantially in this section, and were repealed in section 43 of this act, post, § 4289.

(1714)
§ 4253. (Act Feb. 20, 1907, c. 1134, § 8.) Bringing into or landing in United States aliens not duly admitted or not entitled to enter, punishable.

Any person, including the master, agent, owner, or consignee of any vessel, who shall bring into or land in the United States, by vessel or otherwise, or who shall attempt, by himself or through another, to bring into or land in the United States, by vessel or otherwise, any alien not duly admitted by an immigrant inspector or not lawfully entitled to enter the United States shall be deemed guilty of a misdemeanor, and shall, on conviction, be punished by a fine not exceeding one thousand dollars, or by imprisonment for a term not exceeding two years, or by both such fine and imprisonment for each and every alien so landed or brought in or attempted to be landed or brought in. (34 Stat. 900.)

See notes to section 1 of this act, ante, § 4242.

Previous provisions similar to a great extent to those of this section were contained in Act March 3, 1891, c. 551, § 6, 26 Stat. 1083, but were superseded by those of Act March 3, 1903, c. 1012, § 8, which were re-enacted substantially in this section, and were repealed by section 43 of this act, post, § 4289.

§ 4254. (Act Feb. 20, 1907, c. 1134, § 9.) Bringing into United States aliens subject to disability or afflicted with tuberculosis or loathsome or dangerous contagious disease.

It shall be unlawful for any person, including any transportation company other than railway lines entering the United States from foreign contiguous territory, or the owner, master, agent, or consignee of any vessel to bring to the United States any alien subject to any of the following disabilities: Idiots, imbeciles, epileptics, or persons afflicted with tuberculosis or with a loathsome or dangerous contagious disease, and if it shall appear to the satisfaction of the Secretary of [Commerce and] Labor that any alien so brought to the United States was afflicted with any of the said diseases or disabilities at the time of foreign embarkation and that the existence of such disease or disability might have been detected by means of a competent medical examination at such time, such person or transportation company, or the master, agent, owner, or consignee of any such vessel shall pay to the collector of customs of the customs district in which the port of arrival is located the sum of one hundred dollars for each and every violation of the provisions of this section; and no vessel shall be granted clearance papers pending the determination of the question of the liability to the payment of such fine, and in the event such fine is imposed, while it remains unpaid, nor shall such fine be remitted or refunded: Provided, That clearance may be granted prior to the determination of such questions upon the deposit of a sum sufficient to cover such fine and costs, such sum to be named by the Secretary of [Commerce and] Labor. (34 Stat. 901.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization,
§ 4254

IMMIGRATION

(Tit. 29

and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1915, c. 141, §§ 1, 2, 3, 8, ante, §§ 982, 984, 940.

Previous provisions similar to those of this section were contained in Act March 3, 1903, c. 1012, § 6, 32 Stat. 1215, repealed by section 43 of this act, post, § 4298.

The decision of the board of special inquiry provided for by section 25 of this act, post, § 4274, was made final as to the rejection of aliens under this section, by section 10 of this act, post, § 4297.

§ 4255. (Act Feb. 20, 1907, c. 1134, § 10.) Decision of board of special inquiry final as to aliens affected with tuberculosis, or with loathsome or dangerous contagious disease, or with mental or physical disability.

The decision of the board of special inquiry, hereinafter provided for, based upon the certificate of the examining medical officer, shall be final as to the rejection of aliens affected with tuberculosis or with a loathsome or dangerous contagious disease, or with any mental or physical disability which would bring such aliens within any of the classes excluded from admission to the United States under section two of this Act. (34 Stat. 901.)

See notes to section 1 of this act, ante, § 4242.

Previous provisions similar to those of this section were contained in Act March 3, 1903, c. 1012, § 10, 32 Stat. 1216, repealed by section 43 of this act, post, § 4298.

The appointment or designation of the board of special inquiry mentioned in this section, their authority and proceedings, and the review of their decisions, were provided for and prescribed by section 25 of this act, post, § 4274, but nothing contained therein is to be construed to admit of any appeal in the case of an alien rejected as provided for in this section, by a provision to said section, set forth below.

§ 4256. (Act Feb. 20, 1907, c. 1134, § 11.) Exclusion of alien accompanying rejected helpless alien requiring protection.

Upon the certificate of a medical officer of the United States Public Health and Marine Hospital Service to the effect that a rejected alien is helpless from sickness, mental or physical disability, or infancy, if such alien is accompanied by another alien, whose protection or guardianship is required by such rejected alien, such accompanying alien may also be excluded, and the master, agent, owner, or consignee of the vessel in which such alien and accompanying alien are brought shall be required to return said alien and accompanying alien in the same manner as vessels are required to return other rejected aliens. (34 Stat. 901.)

See notes to section 1 of this act, ante, § 4242.

Provisions similar to those of this section were contained in Act March 3, 1903, c. 1012, § 11, 32 Stat. 1216, repealed by section 43 of this act, post, § 4298.

§ 4257. (Act March 3, 1893, c. 206, § 8.) Posting and notification of immigration laws by agents of steamship companies, etc.; certificate of compliance; penalty.

All steamship or transportation companies, and other owners of vessels, regularly engaged in transporting alien immigrants to the United States, shall twice a year file a certificate with the Secretary of the Treasury that they have furnished to be kept conspicuously exposed to view in the office of each of their agents in
foreign countries authorized to sell emigrant tickets, a copy of the law of March third, eighteen hundred and ninety-one, and of all subsequent laws of this country relative to immigration, printed in large letters, in the language of the country where the copy of the law is to be exposed to view, and that they have instructed their agents to call the attention thereto of persons contemplating emigration before selling tickets to them; and in case of the failure for sixty days of any such company or any such owners to file such a certificate, or in case they file a false certificate, they shall pay a fine of not exceeding five hundred dollars, to be recovered in the proper United States court, and said fine shall also be a lien upon any vessel of said company or owners found within the United States. (27 Stat. 570.)

This section was part of an act entitled "An act to facilitate the enforcement of the immigration and contract labor laws of the United States." It was not directly superseded by the provisions of the Immigration Act of 1903, or the Immigration Act of 1907.

§ 4258. (Act Feb. 20, 1907, c. 1134, § 12.) Lists of alien passengers arriving or departing to be delivered by masters of vessels; description and statements in lists; disposition of lists.

Upon the arrival of any alien by water at any port within the United States it shall be the duty of the master or commanding officer of the steamer, sailing or other vessel having said alien on board to deliver to the immigration officers at the port of arrival lists or manifests made at the time and place of embarkation of such alien on board such steamer or vessel, which shall, in answer to questions at the top of said list, state as to each alien the full name, age, and sex; whether married or single; the calling or occupation; whether able to read or write; the nationality; the race; the last residence; the name and address of the nearest relative in the country from which the alien came; the seaport for landing in the United States; the final destination, if any, beyond the port of landing; whether having a ticket through to such final destination; whether the alien has paid his own passage, or whether it has been paid by any other person or by any corporation, society, municipality, or government, and if so, by whom; whether in possession of fifty dollars, and if less, how much; whether going to join a relative or friend, and if so what relative or friend, and his or her name and complete address; whether ever before in the United States, and if so, when and where; whether ever in prison or almshouse or an institution or hospital for the care and treatment of the insane or supported by charity; whether a polygamist; whether an anarchist; whether coming by reason of any offer, solicitation, promise or agreement, express or implied, to perform labor in the United States, and what is the alien's condition of health, mental and physical, and whether deformed or crippled, and if so, for how long and from what cause; that it shall further be the duty of the master or commanding officer of every vessel taking alien passengers out of the United States, from any port thereof, to file before departure therefrom with the collector of customs of such port a complete list of all such alien passengers taken on board. Such list shall contain the name, age, sex, nationality, resi-
dence in the United States, occupation, and the time of last arrival of every such alien in the United States, and no master of any such vessel shall be granted clearance papers for his vessel until he has deposit-
ed such list or lists with the collector of customs at the port of depart-
ure and made oath that they are full and complete as to the name and
other information herein required concerning each alien taken on
board his vessel; and any neglect or omission to comply with the
requirements of this section shall be punishable as provided in section
fifteen of this Act. That the collector of customs with whom any such
list has been deposited in accordance with the provisions of this sec-
tion, shall promptly notify the Commissioner-General of Immigration
that such list has been deposited with him as provided, and shall
make such further disposition thereof as may be required by regula-
tions to be issued by the Commissioner-General of Immigration with
the approval of the Secretary of [Commerce and] Labor: Provided,
That in the case of vessels making regular trips to ports of the United
States the Commissioner-General of Immigration, with the approval
of the Secretary of [Commerce and] Labor, may, when expedient,
arrange for the delivery of such lists of outgoing aliens at a later date:
Provided further, That it shall be the duty of the master or command-
ing officer of any vessel sailing from ports in the Philippine Islands,
Guam, Porto Rico, or Hawaii to any port of the United States on the
North American Continent to deliver to the immigration officers at
the port of arrival lists or manifests made at the time and place of
embarkation, giving the names of all aliens on board said vessel.
(34 Stat. 901.)

See notes to section 1 of this act, ante, § 4242.
The words "Commerce and," inclosed in brackets in this section, were
superseded by the transfer to the head of the Department of Labor of all duties
performed and all power and authority possessed by the Secretary of Com-
merce and Labor over the Commissioner General of Immigration, the com-
missioners of immigration, the Bureau of Immigration and Naturalisation,
and the Immigration Service at large, by the act creating the Department
of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Previous provisions similar to those of the first part of this section re-
lating to lists of passengers arriving by water were contained in Act March
3, 1903, c. 208, § 1, 27 Stat. 568, but were superseded by those of Act March
3, 1903, c. 1012, § 12, 32 Stat. 1216, which were re-enacted, with additions,
in this section, and were repealed by section 43 of this act, post, § 4289.

Further provisions relating to the lists or manifests required by this sec-
tion were contained in sections 13 and 14 of this act, post, §§ 4250, 4251, and a
penalty for failure to deliver such lists or manifests was prescribed by section
15 of this act, mentioned in this section, post, § 4262.

Until the provisions of this section are made applicable to passengers going
to Canada by land carriage, they are not to apply to passengers going by
vessels employed exclusively in trade between the United States and Canada
and Mexico, by Act March 4, 1909, c. 305, post, § 4250.

§ 4259. (Act March 4, 1909, c. 305.) Requirement of outward alien
manifests not to apply to passengers by vessels in trade be-
tween United States and Canada or Mexico.

Until the provisions of section twelve of the immigration Act of
February twentieth, nineteen hundred and seven, relating to out-
ward alien manifests, shall be made applicable to passengers go-
ing out of the United States to Canada by land carriage, said pro-

(1718)
visions shall not apply to passengers going by vessels employed exclusively in the trade between the ports of the United States and the Dominion of Canada and the Republic of Mexico. (35 Stat. 1060.)

This was an act entitled "An act relative to outward alien manifests on certain vessels."
Act Feb. 20, 1907, c. 1134, § 12, mentioned in this act, is set forth ante, § 4258.

§ 4260. (Act Feb. 20, 1907, c. 1134, § 13.) Grouping of alien passengers in lists; identification tickets; verification of lists and certificate of medical examination by officer of vessel.
All aliens arriving by water at the ports of the United States shall be listed in convenient groups, and no one list or manifest shall contain more than thirty names. To each alien or head of a family shall be given a ticket on which shall be written his name, a number or letter designating the list in which his name, and so forth, is contained, and his number on said list, for convenience of identification on arrival. Each list or manifest shall be verified by the signature and the oath or affirmation of the master or commanding officer, or the first or second below him in command, taken before an immigration officer at the port of arrival, to the effect that he has caused the surgeon of said vessel sailing therewith to make a physical and oral examination of each of said aliens, and that from the report of said surgeon and from his own investigation he believes that no one of said aliens is an idiot, or imbecile, or a feeble-minded person, or insane person, or a pauper, or is likely to become a public charge, or is afflicted with tuberculosis or with a loathsome or dangerous contagious disease, or is a person who has been convicted of, or who admits having committed a felony or other crime or misdemeanor involving moral turpitude, or is a polygamist or one admitting belief in the practice of polygamy, or an anarchist, or under promise or agreement, express or implied, to perform labor in the United States, or a prostitute, or a woman or girl coming to the United States for the purpose of prostitution, or for any other immoral purpose, and that also, according to the best of his knowledge and belief, the information in said lists or manifests concerning each of said aliens named therein is correct and true in every respect. (34 Stat. 902.)

See notes to section 1 of this act, ante, § 4242.
Previous provisions similar to those of this section were contained in Act March 3, 1893, c. 206, § 2, 27 Stat. 569, but were superseded by those of Act March 3, 1903, c. 1012, § 13, which were re-enacted, with additions, in this section, and were repealed by section 43 of this act, post, § 4289.
Verification of the lists or manifests by the surgeon of the vessel was also required by section 14 of this act, post, § 4281.

§ 4261. (Act Feb. 20, 1907, c. 1134, § 14.) Verification of lists by surgeon of vessel.
The surgeon of said vessel sailing therewith shall also sign each of said lists or manifests and make oath or affirmation in like manner before an immigration officer at the port of arrival, stating his professional experience and qualifications as a physician and surgeon, and that he has made a personal examination of each of
the 'said aliens named therein, and that the said list or manifest, according to the best of his knowledge and belief, is full, correct, and true in all particulars relative to the mental and physical condition of said aliens. If no surgeon sails with any vessel bringing aliens the mental and physical examinations and the verifications of the lists or manifests shall be made by some competent surgeon employed by the owners of the said vessel. (34 Stat. 903.)

See notes to section 1 of this act, ante, § 4242.

Previous provisions similar to those of this section were contained in Act March 3, 1883, c. 200, § 3, 27 Stat. 569, but were superseded by those of Act March 8, 1903, c. 1012, § 14, 32 Stat. 1217, which were re-enacted in this section, and were repealed by section 45 of this act, post, § 4298.

§ 4262. (Act Feb. 20, 1907, c. 1134, § 15.) Failure to furnish lists of alien passengers; penalty.

In the case of the failure of the master or commanding officer of any vessel to deliver to the said immigration officers lists or manifests of all aliens on board thereof as required in sections twelve, thirteen, and fourteen of this Act, he shall pay to the collector of customs at the port of arrival the sum of ten dollars for each alien concerning whom the above information is not contained in any list as aforesaid: Provided, That in the case of failure without good cause to deliver the list of passengers required by section twelve of this Act from the master or commanding officer of every vessel taking alien passengers out of the United States, the penalty shall be paid to the collector of customs at the port of departure and shall be a fine of ten dollars for each alien not included in said list; but in no case shall the aggregate fine exceed one hundred dollars. (34 Stat. 903.)

See notes to section 1 of this act, ante, § 4242.

Sections 12, 13, and 14 of this act, mentioned in this section, are set forth ante, §§ 4258, 4260, 4261.

Previous provisions similar in part to those of this section were contained in Act March 3, 1883, c. 200, § 4, 27 Stat. 570, but were superseded by those of Act March 3, 1903, c. 1012, § 15, 32 Stat. 1217, which were re-enacted in this section with the addition of the proviso at the end of the section, and were repealed by section 45 of this act, post, § 4298.

§ 4263. (Act Feb. 20, 1907, c. 1134, § 16.) Inspection of alien passengers upon arrival.

Upon the receipt by the immigration officers at any port of arrival of the lists or manifests of incoming aliens provided for in sections twelve, thirteen, and fourteen of this Act it shall be the duty of said officers to go or send competent assistants to the vessel to which said lists or manifests refer, and there inspect all such aliens, or said immigration officers may order a temporary removal of such aliens for examination at a designated time and place, but such temporary removal shall not be considered a landing, nor shall it relieve the transportation lines, masters, agents, owners, or consignees of the vessel upon which such aliens are brought to any port of the United States from any of the obligations which, in case such aliens remain on board, would, under the provisions of this Act, bind the said transportation lines, masters, agents, owners, or consignees: Provided, That where a suitable building is used for the detention and examination of aliens the immigration officials shall
there take charge of such aliens, and the transportation companies, masters, agents, owners, and consignees of the vessels bringing such aliens shall be relieved of the responsibility for their detention thereafter until the return of such aliens to their care. (34 Stat. 903.)

See notes to section 1 of this act, ante, § 4242.
Sections 12, 13, and 14, of this act, mentioned in this section, are set forth ante, §§ 4258, 4260, 4261.
The transportation lines were required to pay the expenses of the removal and detention of aliens under this section, by Act Oct. 22, 1913, c. 32, post, § 4264.

Previous provisions similar to those of this section and the two sections of this act next following were contained in Act March 3, 1891, c. 551, § 8, 26 Stat. 1065, but were superseded by those of Act March 3, 1903, c. 1012, §§ 16–18, 32 Stat. 1217, which were re-enacted substantially in sections 16–18 of this act, and were repealed by section 43 of this act, post, § 4289.

§ 4264. (Act Oct. 22, 1913, c. 32.) Expenses of removal and detention of aliens pending inspection to be paid by transportation companies.

Whenever aliens arriving at any port of the United States are temporarily removed from a vessel in accordance with the provisions of section sixteen of the immigration Act approved February twentieth, nineteen hundred and seven, the transportation lines which brought them and the masters, owners, agents, and consignees of the vessel on which they arrive shall pay all expenses of such removal and all expenses arising during subsequent detention pending decision of the eligibility of such aliens to enter the United States and until they are either allowed to land or returned to the care of the line or to the vessel which brought them, and such expenses shall include those of maintenance, medical treatment in hospital or elsewhere, burial in the event of death, and charges for transfer to the vessel in the event of deportation, excepting only where such expenses arise under the terms of any of the provisions of section nineteen of the said immigration Act; and aliens shall not be temporarily removed from any vessel unless the master, owner, agent, or consignee thereof shall guarantee in a manner prescribed by and to the satisfaction of the Secretary of Labor that said expenses will be paid. (38 Stat. 226.)

This was a provision of the urgent deficiency appropriation act for the fiscal year 1913, cited above.

Act Feb. 20, 1907, c. 1134, § 16, mentioned in this section, is set forth ante, § 4263.

§ 4265. (Act Feb. 20, 1907, c. 1134, § 17.) Medical examination of alien passengers.

The physical and mental examination of all arriving aliens shall be made by medical officers of the United States Public Health and Marine-Hospital Service, who shall have had at least two years' experience in the practice of their profession since receiving the degree of doctor of medicine and who shall certify for the information of the immigration officers and the boards of special inquiry hereinafter provided for, any and all physical and mental defects or diseases observed by said medical officers in any such alien, or, should medical officers of the United States Public Health and Marine-Hospital Service (1721)
be not available, civil surgeons of not less than four years' professional experience may be employed in such emergency for such service, upon such terms as may be prescribed by the Commissioner-General of Immigration under the direction or with the approval of the Secretary of [Commerce and] Labor. The United States Public Health and Marine-Hospital Service shall be reimbursed by the immigration service for all expenditures incurred in carrying out the medical inspection of aliens under regulations of the Secretary of [Commerce and] Labor. (34 Stat. 903.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

The detail of surgeons, in accordance with the provisions of this section, for service in foreign countries, was authorized by section 22 of this act, ante, § 950.

The provision of this section requiring reimbursement by the immigration fund for expenses of medical inspection of aliens was repealed by a provision of Act March 4, 1909, c. 299, § 1, post, § 4296.

§ 4266. (Act March 4, 1909, c. 299, § 1.) Expenses of medical examination of alien passengers; repeal in part of Act Feb. 20, 1907, c. 1134, § 17.

Public Health and Marine-Hospital Service: Expenses of Public Health and Marine-Hospital Service, * *

In all, * * dollars, which shall include the amount necessary for the medical inspection of aliens, as required by section seventeen of the Act of Congress approved February twentieth, nineteen hundred and seven, and the provision of said section of said Act requiring the reimbursement by the immigration fund for said expenses is hereby repealed. (35 Stat. 969.)

This was a provision accompanying an appropriation for expenses of the Public Health and Marine-Hospital Service, in the sundry civil appropriation act for the fiscal year 1910, cited above. Appropriations for the same purpose were made in the similar acts for subsequent years. Act Feb. 20, 1907, c. 1134, § 17, repealed in part by this provision, is set forth ante, § 4290.

The sundry civil appropriation acts for recent years have made an appropriation under the Public Health Service, for at least six assistant surgeons who have had a special training in the diagnosis of insanity and mental defects for duty in connection with the inspection of arriving aliens. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 3, § 1, 38 Stat. 23.

§ 4267. (Act Feb. 20, 1907, c. 1134, § 18.) Owners, officers, etc., of vessel or transportation line bringing alien to prevent landing at time or place other than as designated; negligent failure to comply with requirements punishable; alien unlawfully landed to be deported.

It shall be the duty of the owners, officers, or agents of any vessel or transportation line, other than those railway lines which may enter into a contract as provided in section thirty-two of this (1722)
Act, bringing an alien to the United States to prevent the landing of such alien in the United States at any time or place other than as designated by the immigration officers, and the negligent failure of any such owner, officer, or agent to comply with the foregoing requirements shall be deemed a misdemeanor and be punished by a fine in each case of not less than one hundred nor more than one thousand dollars or by imprisonment for a term not exceeding one year, or by both such fine and imprisonment; and every such alien so landed shall be deemed to be unlawfully in the United States and shall be deported as provided in sections twenty and twenty-one of this Act. (34 Stat. 904.)

See notes to sections 1 and 16 of this act, ante, §§ 4242, 4263.

Aliens who enter the United States except at seaports or places which the Secretary of Labor may designate are to be adjudged to have entered the country unlawfully, and to be deported, by provisions of section 98 of this act, post, § 4285.

§ 4268. (Act Feb. 20, 1907, c. 1134, § 19.) Immediate deportation of alien unlawfully brought to this country; cost of maintenance and return; refusal to receive back on vessel or to pay cost, punishable; suspension of deportation of alien whose testimony is necessary in prosecution; aliens excluded as diseased not to be landed for medical treatment.

All aliens brought to this country in violation of law shall, if practicable, be immediately sent back to the country whence they respectively came on the vessels bringing them. The cost of their maintenance while on land, as well as the expense of the return of such aliens, shall be borne by the owner or owners of the vessels on which they respectively came; and if any master, person in charge, agent, owner, or consignee of any such vessel shall refuse to receive back on board thereof, or on board of any other vessel owned or operated by the same interests, such aliens, or shall fail to detain them thereon, or shall refuse or fail to return them to the foreign port from which they came, or to pay the cost of their maintenance while on land, or shall make any charge for the return of any such alien, or shall take any security from him for the payment of such charge, such master, person in charge, agent, owner, or consignee shall be deemed guilty of a misdemeanor and shall, on conviction, be punished by a fine of not less than three hundred dollars for each and every such offense; and no vessel shall have clearance from any port of the United States while any such fine is unpaid: Provided, That the Commissioner-General of Immigration, with the approval of the Secretary of [Commerce and] Labor, may suspend, upon conditions to be prescribed by the Commissioner-General of Immigration, the deportation of any alien found to have come in violation of any provision of this Act, if, in his judgment, the testimony of such alien is necessary on behalf of the United States Government in the prosecution of offenders against any provision of this Act: Provided, That the cost of maintenance of any person so detained resulting from such suspension of deportation shall be paid from the "immigrant fund" but no alien certified, as provided in section seventeen of this Act, to be

(1723)
§ 4268 IMMIGRATION

(Tit. 29)

suffering from tuberculosis or from a loathsome or dangerous contagious disease other than one of quarantinable nature shall be permitted to land for medical treatment thereof in any hospital in the United States, unless with the express permission of the Secretary of Commerce and Labor: Provided, That upon the certificate of a medical officer of the United States Public Health and Marine-Hospital Service to the effect that the health or safety of an insane alien would be unduly imperiled by immediate deportation, such alien may, at the expense of the "immigrant fund," be held for treatment until such time as such alien may, in the opinion of such medical officer, be safely deported. (34 Stat. 904.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 8, 8, ante, §§ 832, 834, 940.

Provisions similar to those of this section preceding the three provisions annexed thereto were contained in Act March 5, 1891, c. 501, § 10, 26 Stat. 1080, but were superseded by those of Act March 3, 1908, c. 1012, § 19, 32 Stat. 1219, which were re-enacted, with additions, in this section, and were repealed by section 43 of this act, post, § 4289.

A previous provision for payment of expenses incident to the detention of aliens ordered deported, whose attendance as witnesses for the United States in prosecutions under the immigration laws is required, contained in Act March 3, 1905, c. 1484, § 1, 33 Stat. 1244, may be regarded as superseded by the second proviso of this section.

§ 4269. (Act Feb. 20, 1907, c. 1134, § 20.) Deportation of aliens entering United States in violation of law or becoming public charges; payment of expense of deportation; bond for release of alien pending disposal of case.

Any alien who shall enter the United States in violation of law, and such as become public charges from causes existing prior to landing, shall, upon the warrant of the Secretary of Commerce and Labor, be taken into custody and deported to the country whence he came at any time within three years after the date of his entry into the United States. Such deportation, including one-half of the entire cost of removal to the port of deportation, shall be at the expense of the contractor, procurer, or other person by whom the alien was unlawfully induced to enter the United States, or, if that can not be done, then the cost of removal to the port of deportation shall be at the expense of the "immigrant fund" provided for in section one of this Act, and the deportation from such port shall be at the expense of the owner or owners of such vessel or transportation line by which such aliens respectively came: Provided, That pending the final disposal of the case of any alien so taken into custody he may be released under a bond in the penalty of not less than five hundred dollars with security approved by the Secretary of Commerce and Labor, conditioned that such alien shall be produced when required for a hearing or hearings in regard to the charge upon which he has been taken into

(1724)
custody, and for deportation if he shall be found to be unlawfully within the United States. (34 Stat. 904.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of Immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Previous provisions similar to some extent to those of this section were contained in Act March 3, 1891, c. 551, § 11, 26 Stat. 1086, but were superseded by those of Act March 3, 1903, c. 1012, § 20, 32 Stat. 1218, which were re-enacted, with alterations and additions, in this section, and were repealed by section 48 of this act, post, § 4289.

Further provisions for deportation, as provided in this section, of an alien found in the United States in violation of law, within three years after arrival, are contained in the next following section.

§ 4270. (Act Feb. 20, 1907, c. 1134, § 21.) Deportation of alien found in United States in violation of law, etc.; failure or refusal of masters, agents, owners, or consignees of vessels to comply with order for deportation punishable; aliens requiring personal care and attendance.

In case the Secretary of [Commerce and] Labor shall be satisfied that an alien has been found in the United States in violation of this Act, or that an alien is subject to deportation under the provisions of this Act or of any law of the United States, he shall cause such alien within the period of three years after landing or entry therein to be taken into custody and returned to the country whence he came, as provided by section twenty of this Act, and a failure or refusal on the part of the masters, agents, owners, or consignees of vessels to comply with the order of the Secretary of [Commerce and] Labor to take on board, guard safely, and return to the country whence he came any alien ordered to be deported under the provisions of this Act shall be punished by the imposition of the penalties prescribed in section nineteen of this Act: Provided, That when in the opinion of the Secretary of [Commerce and] Labor the mental or physical condition of such alien is such as to require personal care and attendance, he may employ a suitable person for that purpose, who shall accompany such alien to his or her final destination, and the expense incident to such service shall be defrayed in like manner. (34 Stat. 905.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of Immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Section 19 of this act, mentioned in this section, is set forth ante, § 4288.

Provisions similar to some extent to those of this section which preceded this proviso at the end thereof were contained in Act March 3, 1903, c. 1012, § 21, 32 Stat. 1218, repealed by section 43 of this act, post, § 4289.

Provisions for deportation of any alien found an inmate, etc., of a house (1725)
§ 4270 IMMIGRATION

of prostitution, or practicing prostitution, after entering the United States, or receiving, etc., any part of the earnings of any prostitute, or employed by or in, etc., any house of prostitution, or music or dance hall, etc., frequented by prostitutes, were made by section 3 of this act, as amended by Act March 26, 1910, c. 123, § 2, ante, § 4247.

Provisions for deportation of any alien landed at any time or place other than as designated by the immigration officers were made by section 18 of this act, ante, § 4267.

Further provisions for deportation of aliens entering the United States except at seaports or places which the Secretary of Labor may designate were contained in section 38 of this act, post, § 4285.

The ports to which aliens arrested within the United States after entry, and found to be illegally therein, may be deported, were prescribed by section 35 of this act, post, § 4284.

§ 4271. (Act Aug. 18, 1894, c. 301, § 1.) Commissioners of immigration; appointment.

The commissioners of immigration at the several ports shall be appointed by the President, by and with the advice and consent of the Senate, to hold their offices for the term of four years, unless sooner removed, and until their successors are appointed; and nominations for such offices shall be made to the Senate by the President as soon as practicable after the passage of this Act. (28 Stat. 340.)

This was a provision of the sundry civil appropriation act for the fiscal year 1895, cited above.

The mode of appointing commissioners of immigration provided by this act was not altered by Act March 3, 1903, c. 1012, by a provision of section 24 of that act, 32 Stat. 1219, or by Act Feb. 20, 1907, c. 1134, by a provision of section 24 thereof, post, § 4273.

§ 4272. (Act Feb. 20, 1907, c. 1134, § 23.) Commissioners of immigration; duties.

The duties of the commissioners of immigration shall be of an administrative character, to be prescribed in detail by regulations prepared, under the direction or with the approval of the Secretary of [Commerce and] Labor. (34 Stat. 906.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 8, 8, ante, §§ 492, 934, 940.

A provision in the same language as that of this section was contained in Act March 3, 1903, c. 1012, § 23, 32 Stat. 1219, repealed by section 42b of this act, post, § 4289.

The mode of appointment of commissioners of immigration was prescribed by a provision of Act Aug. 18, 1894, c. 301, § 1, ante, § 4271, and is not altered by anything contained in this act, by a provision of the next following section.

§ 4273. (Act Feb. 20, 1907, c. 1134, § 24.) Immigrant inspectors and other officers, etc.; appointment, compensation, etc.; duties and powers of immigration officers; decisions.

Immigrant inspectors and other immigration officers, clerks, and employees shall hereafter be appointed, and their compensation fixed and raised or decreased from time to time by the Secretary of [Commerce and] Labor, upon the recommendation of the Commis-
sioner-General of Immigration and in accordance with the provisions of the civil-service Act of January sixteenth, eighteen hundred and eighty-three: Provided, That said Secretary, in the enforcement of that portion of this Act which excludes contract laborers, may employ, without reference to the provisions of the said civil service Act, or to the various Acts relative to the compilation of the official register, such persons as he may deem advisable and from time to time fix, raise, or decrease their compensation. He may draw from the "immigrant fund" annually fifty thousand dollars or as much thereof as may be necessary, to be expended for the salaries and expenses of persons so employed and for expenses incident to such employment; and the accounting officers of the Treasury shall pass to the credit of the proper disbursing officer expenditures from said sum without itemized account whenever the Secretary of [Commerce and] Labor certifies that an itemized account would not be for the best interests of the Government: Provided further, That nothing herein contained shall be construed to alter the mode of appointing commissioners of immigration at the several ports of the United States as provided by the sundry civil appropriation Act approved August eighteenth, eighteen hundred and ninety-four, or the official status of such commissioners heretofore appointed. Immigration officers shall have power to administer oaths and to take and consider evidence touching the right of any alien to enter the United States, and, where such action may be necessary, to make a written record of such evidence; and any person to whom such an oath has been administered under the provisions of this Act who shall knowingly or willfully give false evidence or swear to any false statement in any way affecting or in relation to the right of an alien to admission to the United States shall be deemed guilty of perjury and be punished as provided by section fifty-three hundred and ninety-two, United States Revised Statutes. The decision of any such officer, if favorable to the admission of any alien, shall be subject to challenge by any other immigration officer, and such challenge shall operate to take the alien whose right to land is so challenged before a board of special inquiry for its investigation. Every alien who may not appear to the examining immigrant inspector at the port of arrival to be clearly and beyond a doubt entitled to land shall be detained for examination in relation thereto by a board of special inquiry. (34 Stat. 906.)

See note to section 1 of this act, ante, § 4242.

The words "Commerce and," enclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

The Civil Service Act of Jan. 16, 1883, c. 27, mentioned in this section, is set forth ante, §§ 3271-3282.

The provision of the sundry civil appropriation Act of Aug. 18, 1894, c. 301, § 1, as to the mode of appointing commissioners of immigration, mentioned in this section, is set forth ante, § 4271.

The provisions of Rev. St. § 5392, mentioned in this section, defining and punishing perjury, were in great part re-enacted in the Criminal Code, in (1727)
§ 4273  IMMIGRATION  (Tit. 29)

section 125 thereof, post, § 10295, and the section was repealed by section 341 of said Code, post, § 10515.


Previous provisions relating to decisions of inspection officers and other immigration officers, and review thereof, were made by Act March 3, 1891, c. 551, § 8, 26 Stat. 1085, and Act Aug. 18, 1894, c. 301, § 1, 28 Stat. 390.

Previous provisions similar to those of this section, except the first proviso thereto, were made by Act March 3, 1908, c. 1012, § 24, 32 Stat. 1219, repealed by section 43 of this act, post, § 4289.

§ 4274. (Act Feb. 20, 1907, c. 1134, § 25.) Boards of special inquiry; appointment or designation; authority; hearings; records, decisions, and appeals.

Such boards of special inquiry shall be appointed by the commissioner of immigration at the various ports of arrival as may be necessary for the prompt determination of all cases of immigrants detained at such ports under the provisions of law. Each board shall consist of three members, who shall be selected from such of the immigrant officials in the service as the Commissioner-General of Immigration, with the approval of the Secretary of [Commerce and Labor], shall from time to time designate as qualified to serve on such boards: Provided, That at ports where there are fewer than three immigrant inspectors, the Secretary of [Commerce and Labor], upon the recommendation of the Commissioner-General of Immigration, may designate other United States officials for service on such boards of special inquiry. Such boards shall have authority to determine whether an alien who has been duly held shall be allowed to land or shall be deported. All hearings before boards shall be separate and apart from the public, but the said board shall keep a complete permanent record of their proceedings and of all such testimony as may be produced before them; and the decision of any two members of a board shall prevail, but either the alien or any dissenting member of the said board may appeal through the commissioner of immigration at the port of arrival and the Commissioner-General of Immigration to the Secretary of [Commerce and Labor], and the taking of such appeal shall operate to stay any action in regard to the final disposal of any alien whose case is so appealed until the receipt by the commissioner of immigration at the port of arrival of such decision which shall be rendered solely upon the evidence adduced before the board of special inquiry: Provided, That in every case where an alien is excluded from admission into the United States, under any law or treaty now existing or hereafter made, the decision of the appropriate immigration officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of [Commerce and Labor]; but nothing in this section shall be construed to admit of any appeal in the case of an alien rejected as provided for in section ten of this Act. (34 Stat. 906.)

See notes to section 1 of this act, ante, § 4242.

The word "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of (1728)
Ch. A) IMMIGRATION § 4276

Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Previous provisions for review of decisions of immigration officers were made by Act March 3, 1891, c. 551, § 8, 26 Stat. 1085, and Act Aug. 18, 1894, c. 301, § 1, 28 Stat. 390.

Previous provisions similar to those of this section, except those contained in the proviso thereto, were made by Act March 3, 1903, c. 1012, § 25, 32 Stat. 1220, repealed by section 43 of this act, post, § 4289.

§ 4275. (Act Feb. 20, 1907, c. 1134, § 26.) Admission of aliens liable to be excluded, on giving bond of indemnity against becoming public charge; suits on bonds.

Any alien liable to be excluded because likely to become a public charge or because of physical disability other than tuberculosis or a loathsome or dangerous contagious disease may, if otherwise admissible, nevertheless be admitted in the discretion of the Secretary of [Commerce and] Labor upon the giving of a suitable and proper bond or undertaking, approved by said Secretary in such amount and containing such conditions as he may prescribe, to the people of the United States, holding the United States or any State, Territory, county, municipality, or district thereof harmless against such alien becoming a public charge. The admission of such alien shall be a consideration for the giving of such bond or undertaking. Suit may be brought thereon in the name and by the proper law officers either of the United States Government or of any State, Territory, district, county, or municipality in which such alien becomes a public charge.

(34 Stat. 906.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

A previous provision relating to bonds of indemnity against aliens becoming public charges was made by Act March 3, 1893, c. 296, § 7, 27 Stat. 570, but was superseded by Act March 3, 1903, c. 1012, § 26, which was repealed by section 43 of this act, post, § 4289.

§ 4276. (Act Feb. 20, 1907, c. 1134, § 27.) Compromise of suits for violations of act.

No suit or proceeding for a violation of the provisions of this Act shall be settled, compromised, or discontinued without the consent of the court in which it is pending, entered of record, with the reasons therefor.

(34 Stat. 907.)

See notes to section 1 of this act, ante, § 4242.

A previous similar provision, relating to violations of Act Feb. 26, 1885, c. 184, 23 Stat. 332, 333, was made by Act March 3, 1891, c. 551, § 2, 26 Stat. 1084, but was superseded by Act March 3, 1903, c. 1012, § 27, 32 Stat. 1220, which was re-enacted in the same language in this section, and was repealed by section 43 of this act, post, § 4289.

Comp.St. '13—109

(1729)
§ 4277. (Act Feb. 20, 1907, c. 1134, § 29.) Jurisdiction of courts. The [Circuit and] district courts of the United States are hereby invested with full [and concurrent] jurisdiction of all causes, civil and criminal, arising under any of the provisions of this Act. (34 Stat. 907.)

See notes to section 1 of this act, ante, § 4242.

The words "circuit and" and "and concurrent," inclosed in brackets in this section, were superseded by the abolition of the circuit courts and the transfer of their powers and duties to the district courts by Jud. Code, §§ 289, 291, ante, §§ 1264-1266.

A similar provision relating to causes arising under Act March 3, 1891, c. 551, was contained in section 13 of that act, 26 Stat. 1086, but was superseded by Act March 3, 1903, c. 1012, § 26, 32 Stat. 1220, relating to causes arising under that act, which was repealed by section 43 of this act, post, § 4280.

Jurisdiction of all suits and proceedings arising under any law regulating the immigration of aliens or under the contract labor laws was conferred on the district courts, on the abolition of the circuit courts, by Jud. Code, § 24, par. 22, ante, § 961 (22).

§ 4278. (Act Feb. 25, 1913, c. 73, § 1.) Interior immigrant stations.

For the purpose of making effective the power of establishing rules and regulations for protecting the United States and aliens migrating thereto from fraud and loss, conferred upon the Commissioner General of Immigration, subject to the direction and with the approval of the Secretary of [Commerce and] Labor, by section twenty-two of an Act entitled "An Act to regulate the immigration of aliens into the United States," approved February twentieth, nineteen hundred and seven, the Secretary of [Commerce and] Labor shall establish and maintain immigrant stations at such interior places as may be necessary, and, in the discretion of the said Secretary, aliens in transit from ports of landing to such interior stations shall be accompanied by immigrant inspectors: Provided, That nothing in this Act shall be construed as authorizing the Commissioner General of Immigration to pay the cost of transportation of any arriving alien. (37 Stat. 692.)

This was the first section of an act entitled, "An act to extend the power of the Commissioner General of Immigration, subject to the approval of the Secretary of Commerce and Labor."

The words "Commerce and," inclosed in brackets where they occur twice in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Section 22 of Act Feb. 20, 1907, c. 1134, mentioned in this section, is set forth ante, § 956.

Section 2 of this act authorized and made an appropriation for the establishment in the city of Chicago of such a station as is described in this section. It is omitted as temporary merely.

§ 4279. (Act Feb. 20, 1907, c. 1134, § 30.) Disposal of privileges at immigrant stations; sale of intoxicating liquors forbidden.

All exclusive privileges of exchanging money, transporting passengers or baggage, or keeping eating houses, and all other like (1730)
privileges in connection with any United States immigrant station, shall be disposed of after public competition, subject to such conditions and limitations as the Commissioner-General of Immigration, under the direction or with the approval of the Secretary of [Commerce and] Labor, may prescribe: Provided, That no intoxicating liquors shall be sold in any such immigrant station; that all receipts accruing from the disposal of such exclusive privileges as herein provided shall be paid into the Treasury of the United States to the credit of the "immigrant fund" provided for in section one of this Act. (34 Stat. 907.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of Immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 984, 940.

The provision of this section that the receipts from the disposal of the privileges should be paid into the Treasury to the credit of the "immigrant fund" was superseded by the provision that all moneys received from sources under the immigration laws should be covered into the Treasury to the credit of miscellaneous receipts, contained in Act March 4, 1909, c. 299, § 1, ante, § 4243.

A similar provision relating to the Ellis Island immigrant station was made by Act March 3, 1893, c. 206, § 9, 27 Stat. 571, but was superseded by the more general provisions of Act March 3, 1898, c. 1012, § 30, 32 Stat. 1220, which were re-enacted in this section, and were repealed by section 43 of this act, post, § 4280.

§ 4280. (Act Feb. 20, 1907, c. 1134, § 31.) Jurisdiction of state and local officers and courts over immigrant stations.

For the preservation of the peace and in order that arrests may be made for crimes under the laws of the States and Territories of the United States where the various immigrant stations are located, the officers in charge of such stations, as occasion may require, shall admit therein the proper State and municipal officers charged with the enforcement of such laws, and for the purpose of this section the jurisdiction of such officers and of the local courts shall extend over such stations. (34 Stat. 908.)

See notes to section 1 of this act, ante, § 4242.

A previous similar provision was made by Act March 3, 1891, c. 551, § 9, 26 Stat. 1086, but was superseded by Act March 3, 1903, c. 1012, § 31, 32 Stat. 1220, which was re-enacted in this section, and was repealed by section 43 of this act, post, § 4280.

§ 4281. (Act Feb. 20, 1907, c. 1134, § 32.) Rules for entry and inspection of aliens along the borders of Canada and Mexico; contracts with foreign transportation lines.

The Commissioner-General of Immigration, under the direction or with the approval of the Secretary of [Commerce and] Labor, shall prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico, so as not to unnecessarily delay, impede, or annoy passengers in ordinary travel between the United States and
said countries, and shall have power to enter into contracts with transportation lines for the said purpose. (34 Stat. 908.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," enclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

A previous provision similar to that of this section was made by Act March 8, 1891, c. 531, § 8, 26 Stat. 1085, but was superseded by Act March 8, 1903, c. 1012, § 32, 32 Stat. 1221, which was re-enacted in this section, and repealed by section 43 of this act, post, § 4289.

Agreements with transportation lines, as provided in this section, for the payment of the head-money duty on aliens seeking admission overland, were authorized by a proviso annexed to section 1 of this act, ante, § 4242.

§ 4282. (Act Feb. 20, 1907, c. 1134, § 33.) Construction of term "United States" for purpose of act; aliens coming from Isthmian Canal Zone.

For the purpose of this Act the term "United States" as used in the title as well as in the various sections of this Act shall be construed to mean the United States and any waters, territory, or other place subject to the jurisdiction thereof, except the Isthmian Canal Zone: Provided, That if any alien shall leave the canal zone and attempt to enter any other place under the jurisdiction of the United States, nothing contained in this Act shall be construed as permitting him to enter under any other conditions than those applicable to all aliens. (34 Stat. 908.)

See notes to section 1 of this act, ante, § 4242.

A previous provision, similar to that part of this section preceding the words "except the Isthmian Canal Zone," was made by Act March 8, 1903, c. 1012, § 33, 32 Stat. 1221, repealed by section 43 of this act, post, § 4289.

The provisions of section 1 of this act, which imposes a tax on every alien entering the United States, do not apply to aliens arriving in Guam, Porto Rico, or Hawaii, by a proviso annexed to that section, ante, § 4242.

§ 4283. (Act Feb. 20, 1907, c. 1134, § 34.) Appointment of commissioner of immigration at New Orleans, La.

The Commissioner-General of Immigration, with the approval of the Secretary of [Commerce and] Labor, may appoint a commissioner of immigration to discharge at New Orleans, Louisiana, the duties now required of other commissioners of immigration at their respective posts. (34 Stat. 908.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," enclosed in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

§ 4284. (Act Feb. 20, 1907, c. 1134, § 35.) Ports to which aliens to be deported.

The deportation of aliens arrested within the United States after (1732)
entry and found to be illegally therein, provided for in this Act, shall be to the trans-Atlantic or trans-Pacific ports from which said aliens embarked for the United States; or, if such embarkation was for foreign contiguous territory, to the foreign port at which said aliens embarked for such territory. (34 Stat. 908.)

See notes to section 1 of this act, ante, § 4242.

A previous provision, identical in language with this section, was contained in Act March 3, 1903, c. 1012, § 85, repealed by section 48 of this act, post, § 4286.

§ 4283. (Act Feb. 20, 1907, c. 1134, § 36.) Deportation of aliens entering United States except at seaports or places designated by Secretary of Commerce and Labor.

All aliens who shall enter the United States except at the seaports thereof, or at such place or places as the Secretary of [Commerce and] Labor may from time to time designate, shall be adjudged to have entered the country unlawfully and shall be deported as provided by sections twenty and twenty-one of this Act: Provided, That nothing contained in this section shall affect the power conferred by section thirty-two of this Act upon the Commissioner-General of Immigration to prescribe rules for the entry and inspection of aliens along the borders of Canada and Mexico. (34 Stat. 908.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were superceded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Sections 20, 21, and 32 of this act, mentioned in this section, are set forth ante, §§ 4269, 4270, 4281.

Aliens landed at any time or place other than as designated by the immigration officers are to be deemed to be unlawfully in the United States and to be deported, by provisions of section 18 of this act, ante, § 4287.

§ 4286. (Act Feb. 20, 1907, c. 1134, § 37.) Temporary detention and admission or deportation, in case of contagious disorder, of wife or minor child of alien resident who has filed declaration of intention to become citizen.

Whenever an alien shall have taken up his permanent residence in this country, and shall have filed his declaration of intention to become a citizen, and thereafter shall send for his wife, or minor children to join him, if said wife or any of said children shall be found to be affected with any contagious disorder, such wife or children shall be held, under such regulations as the Secretary of [Commerce and] Labor shall prescribe, until it shall be determined whether the disorder will be easily curable, or whether they can be permitted to land without danger to other persons; and they shall not be either admitted or deported until such facts have been ascertained; and if it shall be determined that the disorder is easily curable or that they can be permitted to land without danger to other persons, they shall, if otherwise admissible, thereupon be admitted. (34 Stat. 908.)

See notes to section 1 of this act, ante, § 4242.

The words "Commerce and," inclosed in brackets in this section, were su-
§ 4286  IMMIGRATION  (Tit. 29)

Perceeded by the transfer to the head of the Department of Labor of all duties performed and all powers and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalisation, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Previous provisions similar to a great extent to those of this section were made by Act March 3, 1903, § 37, 32 Stat. 1221, repealed by section 48 of this act, post, § 4289.

Persons afflicted with a dangerous contagious disease are among the classes of aliens excluded from admission by sections 2 and 9 of this act, ante, §§ 4244, 4254.

§ 4287. (Act Feb. 20, 1907, c. 1134, § 38.) Persons disbelieving in or opposed to all organized government, or advocating the unlawful assaulting or killing of officers of government, not to be permitted to enter; aiding, etc., entry of such person, punishable.

No person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, shall be permitted to enter the United States or any Territory or place subject to the jurisdiction thereof. This section shall be enforced by the Secretary of [Commerce and] Labor under such rules and regulations as he shall prescribe. Any person who knowingly aids or assists any such person to enter the United States or any Territory or place subject to the jurisdiction thereof, or who connives or conspires with any person or persons to allow, procure, or permit any such person to enter therein, except pursuant to such rules and regulations made by the Secretary of [Commerce and] Labor, shall be fined not more than five thousand dollars, or imprisoned for not more than five years, or both. (34 Stat. 908.)

See notes to section 1 of this act, ante, § 4242.

The words “Commerce and,” inserted in brackets in this section, were superseded by the transfer to the head of the Department of Labor of all duties performed and all power and authority possessed by the Secretary of Commerce and Labor over the Commissioner General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalisation, and the Immigration Service at large, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Previous provisions nearly identical in language with those of this section were made by Act March 3, 1903, c. 1012, § 38, 32 Stat. 1221, repealed by section 48 of this act, post, § 4289.

§ 4288. (Act Feb. 20, 1907, c. 1134, § 41.) Act not to apply to foreign government officials, etc.

Nothing in this Act shall be construed to apply to accredited officials of foreign governments nor to their suites, families, or guests. (34 Stat. 910.)

See notes to section 1 of this act, ante, § 4242.

1221, amended by Act March 22, 1904, c. 749, 33 Stat. 144, repealed by this section, were almost entirely re-enacted, with some changes and additions, in the sections of this act designated by the same numbers, respectively, as said repealed sections.

Section 34 of said Act March 3, 1903, c. 1012, which forbids the sale of intoxicating liquors within the limits of the Capitol building, and was excepted from the repeal of that act by this section, is set forth ante, § 3391.

The laws relating to the immigration or exclusion of Chinese, excepted from the general repealing provision of this section, by the proviso annexed thereto, are set forth post, under Chapter B, "Exclusion of Chinese."

So much of this section and of section 44 of this act as provided for the repeal of Act Aug. 2, 1882, c. 374, § 1, 22 Stat. 186, was repealed, with section 42 of this act, by Act Dec. 19, 1908, c. 6, § 2, post, § 7988. See note to that section.

§ 4289. (Act Feb. 20, 1907, c. 1134, § 43.) Repeal.

The Act of March third, nineteen hundred and three, being an Act to regulate the immigration of aliens into the United States, except section thirty-four thereof, and the Act of March twenty-second, nineteen hundred and four, being an Act to extend the exemption from head tax to citizens of Newfoundland entering the United States, and all Acts and parts of Acts inconsistent with this Act are hereby repealed: Provided, That this Act shall not be construed to repeal, alter, or amend existing laws relating to the immigration or exclusion of Chinese persons or persons of Chinese descent, nor to repeal, alter, or amend section six, chapter four hundred and fifty-three, third session Fifty-eighth Congress, approved February sixth, nineteen hundred and five, or, prior to January first, nineteen hundred and nine, section one of the Act approved August second, eighteen hundred and eighty-two, entitled "An Act to regulate the carriage of passengers by sea." (34 Stat. 911.)

See notes to section 1 of this act, ante, § 4242.

CHAPTER B

Exclusion of Chinese

This chapter includes the provisions of the several Chinese exclusion acts, beginning with Act May 6, 1882, c. 126, 22 Stat. 58, which, as being then in force, were re-enacted, extended, and continued by Act April 29, 1902, c. 641, 32 Stat. 176, with the further provisions of that act and those of subsequent acts relating to the subject which remain in force, and also the treaty with China of Dec. 8, 1894, 28 Stat. 1210, relating to the coming of Chinese laborers to and their residence in the United States, which by its terms was to continue in force for a period of ten years, and if not then terminated by notice, for a further period of ten years.

Sec. 4290. Coming of Chinese laborers to United States suspended.

Sec. 4291. Masters of vessels landing Chinese laborers, punishable.

Sec. 4292. Exemptions from application of two foregoing sections.

Sec. 4293. Chinese other than laborers; certificates of identity.

Sec. 4294. Altering name in or forging certificate, or false personation of person named therein, punishable.

Sec. 4295. Lists of Chinese passengers to be delivered by masters of vessels arriving from foreign ports; contents; penalty for failure.

(1735)
4390. Comparison of lists with certificates.
4297. Forfeitures of vessels for violations of act.
4298. Bringing or landing Chinese laborers not entitled to enter, punishable.
4299. Chinese not to enter United States by land without certificate; deportation of Chinese unlawfully within United States; expense.
4300. Diplomatic and other officers, their servants, etc., exempted from application of act.
4301. Persons to whom act is applicable; “Chinese laborers” defined.
4302. Violations of act punishable.
4303. Return to United States of Chinese laborers after departure therefrom, unlawful.
4304. Certificates of identity not to be issued, and those issued void.
4305. Duties, liabilities, penalties, and forfeitures under previous act extended.
4306. Return of Chinese laborers after departure not permitted, except under conditions stated.
4307. Conditions under which Chinese laborers may return.
4308. Identification of Chinese laborers claiming right to leave and return; certificates; limitation of time for return; ports at which Chinese may enter.
4309. Regulations, etc., to be prescribed by Secretary of Treasury.
4311. Masters of vessels in distress excepted from foregoing section.
4312. Altering name in or forging certificate, or false personation of person named therein, punishable.
4314. Chinese diplomatic and consular officers excepted from preceding sections.
4315. Laws prohibiting coming of Chinese continued.
4316. Removal of Chinese not entitled to be or remain in United States.
4317. Chinese person arrested must prove right to remain.
4318. Chinese unlawfully in United States punishable.
4319. Habeas corpus proceeding by Chinese denied landing; bail not allowed.
4320. Certificates of residence; arrest and deportation of Chinese laborers not having certificate.
4321. Regulations, etc., to be prescribed for execution of act.
4322. Altering name in or forging certificate, or false personation of person named therein, punishable.
4323. Compensation to officers for services under act.
4324. “Laborer” and “merchant” defined; proof required for entrance of merchant; deportation; certificate of residence to contain photograph.
4325. Decisions of immigration officers excluding from admission final unless reversed on appeal.
4326. Coming of Chinese laborers to United States to be prohibited.
4327. Preceding article not to apply to return to United States of certain laborers; certificates of right to return; limitation of time for return.
4328. Classes of Chinese permitted to enter; privilege of transit of laborers.
4329. Protection of Chinese in United States.
4331. Time convention to remain in force; notice of termination.
4333. Fees of commissioners in cases under Chinese exclusion laws.
4335. Exclusion of Chinese from Hawaii; entry into United States from Hawaii prohibited.
4336. Certificates of residence for Chinese in Hawaii at time of annexation; such Chinese not entitled to enter other parts of United States.
4337. Laws prohibiting and regulating coming and residence of Chinese re-enacted, extended, and continued, and made applicable to island territory.
4338. Regulations for execution of provisions of acts and of treaty.

(1736)
§ 4290. (Act May 6, 1882, c. 126, § 1, as amended, Act July 5, 1884, c. 220.) Coming of Chinese laborers to United States suspended.

That from and after the passage of this act, and until the expiration of ten years next after the passage of this act, the coming of Chinese laborers to the United States be, and the same is hereby, suspended, and during such suspension it shall not be lawful for any Chinese laborer to come from any foreign port or place, or having so come to remain within the United States. (22 Stat. 58. 23 Stat. 115.)

This was the first section of the Chinese Exclusion Act of 1882, entitled "An act to execute certain treaty stipulations relating to Chinese."

The act was preceded by a preamble, as follows:

"Whereas in the opinion of the Government of the United States the coming of Chinese laborers to this country endangers the good order of certain localities within the territory thereof: Therefore,"

The treaty stipulations referred to in the title of this act were contained in the treaty with China of November 17, 1880, 22 Stat. 826, by which it was agreed that the United States might regulate, limit, or suspend the coming or residence of Chinese laborers, but should not prohibit it, and that other Chinese subjects, as well as Chinese laborers then in the United States, should be allowed to go and come of their own free will, and should have all the privileges of citizens and subjects of the most favored nation. A treaty relating to the same subject was signed March 12, 1888, but was not ratified. A convention between the two nations, ratified December 7, 1894, prohibiting, for a period of 10 years, with a provision for its extension for another 10 years, the coming of Chinese laborers to the United States, except under conditions specified, is set forth post, §§ 4326–4331.

Before the expiration of the time for the ratification of the proposed treaty signed March 12, 1888, mentioned above, Act Sept. 13, 1888, c. 1015, 25 Stat. 476, parts of which are set forth post, §§ 4308–4314, was passed, which further restricted immigration of Chinese, and section 15 of which repealed this act and Act July 5, 1884, c. 220, 23 Stat. 115, amendatory thereof, the repeal "to take effect upon the ratification of the pending treaty"; and thereafter Act Oct. 1, 1888, c. 1064, 25 Stat. 604, was passed, making unlawful the return of Chinese laborers in the United States after departure therefrom, and extending the application of certain provisions of this act, without referring to the proposed repeal thereof by Act Sept. 13, 1888, c. 1015, § 15. The treaty was never ratified, and the repeal of this act and other provisions of Act Sept. 13, 1888, c. 1015, dependent on such ratification, never became operative.

This section and most of the following sections of this act were amended, and at the end of the act, by amendment of section 15 thereof, sections 16 and 17 were added thereto, by Act July 5, 1884, c. 220, 23 Stat. 115; the several amendments being incorporated in the respective sections as set forth here.

Such amendments of this section consisted in the insertion, after the words at the beginning of the section, "That from and after," of the words "the expiration of ninety days next after"; in the striking out, after the words "any Chinese laborer to come," of the words "from any foreign port or place"; and in the insertion, after the words "or, having so come," of the words "after the expiration of said ninety days."

The suspension for 10 years of the coming of Chinese laborers into the United States by this section, and other provisions of this and other acts re-

(1737)
§ 4290 IMIGRATION (Tit. 29)

maintaining in force at that time, were continued for a period of ten years by Act May 5, 1882, c. 60, § 1, post, § 4315.

The provisions of this act, and all laws prohibiting and regulating the coming of Chinese into the United States and their residence therein, in force at the time, were re-enacted, extended, and continued, and were also made applicable to the island territory under the jurisdiction of the United States, by Act April 29, 1902, c. 641, § 1, post, § 4337.

On the establishment of the Department of Commerce and Labor and the transfer thereto from the Treasury Department of the Immigration Service, by Act Feb. 14, 1903, c. 552, ante, §§ 853–861, the authority, power and jurisdiction possessed and exercised by the Secretary of the Treasury by virtue of any law in relation to the exclusion from and the residence within the United States, its territories, and the District of Columbia, of Chinese and persons of Chinese descent, were transferred to and conferred upon the Secretary of Commerce and Labor, and the authority, power, and jurisdiction in relation thereto vested by law or treaty in the collectors of customs and collectors of internal revenue, were conferred upon and vested in such officers under the control of the Commissioner-General of Immigration, as the Secretary of Commerce and Labor might designate therefor, by provisions of section 7 of that act, ante, § 888.

On the creation of the Department of Labor, the Commissioner-General of Immigration, the commissioners of immigration, the Bureau of Immigration, and Naturalization and the Immigration Service at large, were transferred to that department, and the duties and powers of the Secretary of Commerce and Labor with reference thereto were transferred and conferred to the Secretary of Labor, by Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

Sections 2, 3, 6–13, 15, and 16 of this act are set forth post, §§ 4291–4302.

Section 4 of this act, as amended by Act July 5, 1884, c. 220, 23 Stat. 115, provided that the collector of the customs for the proper district should make lists of all Chinese laborers about to depart by water from the United States and having the right to re-enter, stating the individual, family, and tribal name in full, the age, occupation, when and where followed, last place of residence, physical marks or peculiarities, and all facts necessary for the identification of each of such laborers, said lists to be entered in registers to be kept in the custom-house; that every Chinese laborer departing from the United States should be entitled to receive free of charge a certificate, the contents of which were to correspond with the lists; that the certificates should be forfeited in certain cases; and that said certificates should entitle the laborer to whom it had been issued to return to the United States. It was superseded by Act Oct. 1, 1888, c. 1084, post, §§ 4303–4305, which provided that no Chinese laborer whatever should be entitled to return to the United States, that no certificates of identity should thereafter be issued, that every such certificate heretofore issued was declared void, and that Chinese laborers seeking admission by virtue of such certificates should be refused entrance.

Section 5 of this act provided for the issuance of certificates to Chinese laborers about to depart from the United States by land similar to those provided for by section 4 of this act. It was superseded by Act Oct. 1, 1888, c. 1084, post, §§ 4303–4305. See, also, the preceding paragraph of this act.

Section 14 of this act provided that no State court or court of the United States should admit Chinese to citizenship, and repealed all laws in conflict therewith. It is set forth, post, § 4359.

Section 17, added, with section 16, to this act by amendment by Act July 5, 1884, c. 220, 23 Stat. 118, provided that that act should not affect any proceeding or other proceeding begun under the act of which it was amendatory. The section is omitted as temporary in its nature, merely.


The master of any vessel who shall knowingly bring within the United States on such vessel, and land, or attempt to land, or per-
mit to be landed any Chinese laborer, from any foreign port or place, shall be deemed guilty of a misdemeanor, and, on conviction thereof, shall be punished by a fine of not more than five hundred dollars for each and every such Chinese laborer so brought, and may also be imprisoned for a term not exceeding one year. (22 Stat. 59. 23 Stat. 115.)

See notes to section 1 of this act, ante, § 4290.

This section was amended by inserting, after the words "and land," the words "or attempt to land," as set forth here, by Act July 5, 1884, c. 220, cited above.

The application of the provisions of this section was extended by Act Oct. 1, 1888, c. 1064, § 3, post, § 4305.

Provisions somewhat similar to those of this section were made by Act Sept. 13, 1888, c. 1016, § 9, post, § 4310.

§ 4292. (Act May 6, 1882, c. 126, § 3, as amended, Act July 5, 1884, c. 220.) Exemptions from application of two foregoing sections.

The two foregoing sections shall not apply to Chinese laborers who were in the United States on the seventeenth day of November, eighteen hundred and eighty, or who shall have come into the same before the expiration of ninety days next after the passage of the act to which this act is amendatory, nor shall said sections apply to Chinese laborers, who shall produce to such master before going on board such vessel, and shall produce to the collector of the port in the United States at which such vessel shall arrive, the evidence hereinafter in this act required of his being one of the laborers in this section mentioned; nor shall the two foregoing sections apply to the case of any master whose vessel, being bound to a port not within the United States, shall come within the jurisdiction of the United States by reason of being in distress or in stress of weather, or touching at any port of the United States on its voyage to any foreign port or place: Provided: That all Chinese laborers brought on such vessel shall not be permitted to land except in case of absolute necessity, and must depart with the vessel on leaving port. (22 Stat. 59. 23 Stat. 115.)

See notes to section 1 of this act, ante, § 4290.

This section was amended, by striking out, after the words "the passage of," the words "this act, and," and inserting instead thereof the words "the act to which this act is amendatory, nor shall said sections apply to Chinese laborers, who," and by inserting in the proviso, after the words "That all Chinese laborers brought on such vessel shall," the words "not be permitted to land except in case of absolute necessity, but must," making the section read as set forth here, by Act July 5, 1884, c. 220, cited above.

So much of this section as permitted Chinese laborers who were in the United States on the 17th day of November, 1880, or who came into the United States before the expiration of ninety days next after May 6, 1882, to return to the United States, was superseded by Act Oct. 1, 1888, c. 1064, § 1, post, § 4306, which prohibited the return of any Chinese laborer whatever.

The provisions of the latter act were in turn superseded in part by provisions permitting the return of a Chinese laborer who had a wife, child, or parent in the United States or who had property of the value of $1,000 or debts of like amount and pending settlement, by the Convention with China of Dec. 6, 1884, art. 2, post, § 4327. Provisions somewhat similar to those of (1739)
said convention, made by Act Sept. 13, 1888, c. 1015, § 6, post, § 4307, were re-enacted by Act April 29, 1902, c. 641, § 1, post, § 4337.

An exception relating to the landing of vessels in distress, similar to the provisions of this section, was contained in Act Sept. 13, 1888, c. 1015, § 10, post, § 4311, also re-enacted by Act April 29, 1902, c. 641, § 1, post, § 4337.

§ 4293. (Act May 6, 1882, c. 126, § 6, as amended, Act July 5, 1884, c. 220.) Chinese other than laborers; certificates of identity.

In order to the faithful execution of the provisions of this act, every Chinese person, other than a laborer, who may be entitled by said treaty or this act to come within the United States, and who shall be about to come to the United States, shall obtain the permission of and be identified as so entitled by the Chinese Government, or of such other foreign Government of which at the time such Chinese person shall be a subject, in each case to be evidenced by a certificate issued by such Government, which certificate shall be in the English language, and shall show such permission, with the name of the permitted person in his or her proper signature, and which certificate shall state the individual, family, and tribal name in full, title or official rank, if any, the age, height, and all physical peculiarities, former and present occupation or profession, when and where and how long pursued, and place of residence of the person to whom the certificate is issued, and that such person is entitled by this act to come within the United States. If the person so applying for a certificate shall be a merchant, said certificate shall, in addition to above requirements, state the nature, character, and estimated value of the business carried on by him prior to and at the time of his application as aforesaid: Provided, That nothing in this act nor in said treaty shall be construed as embracing within the meaning of the word "merchant," hucksters, peddlers, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation. If the certificate be sought for the purpose of travel for curiosity, it shall also state whether the applicant intends to pass through or travel within the United States, together with his financial standing in the country from which such certificate is desired. The certificate provided for in this act, and the identity of the person named therein shall, before such person goes on board any vessel to proceed to the United States, be vised by the indorsement of the diplomatic representatives of the United States in the foreign country from which said certificate issues, or of the consular representative of the United States at the port or place from which the person named in the certificate is about to depart; and such diplomatic representative or consular representative whose indorsement is so required is hereby empowered, and it shall be his duty, before indorsing such certificate as aforesaid, to examine into the truth of the statements set forth in said certificate, and if he shall find upon examination that said or any of the statements therein contained are untrue it shall be his duty to refuse to indorse the same. Such certificate vised as aforesaid shall be prima facie evidence of the facts set forth therein, and shall be produced to the collector of customs of the port in the district in the United States at which the person named therein shall arrive, and afterward produced to
the proper authorities of the United States whenever lawfully demanded, and shall be the sole evidence permissible on the part of the person so producing the same to establish a right of entry into the United States; but said certificate may be controverted and the facts therein stated disproved by the United States authorities. (22 Stat. 60. 23 Stat. 116.)

See notes to section 1 of this act, ante, § 4290.

This section was amended by numerous changes in the language and extensive additions thereto, making it read as set forth here, by Act July 5, 1884, c. 220, cited above.

The word "merchant," as used in acts relating to this subject, was defined by Act Nov. 3, 1883, c. 14, § 2, post, § 4324.

§ 4294. (Act May 6, 1882, c. 126, § 7.) Altering name in or forging certificate, or false personation of person named therein, punishable.

Any person who shall knowingly and falsely alter or substitute any name for the name written in such certificate or forge any such certificate, or knowingly utter any forged or fraudulent certificate, or falsely personate any person named in any such certificate, shall be deemed guilty of a misdemeanor; and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars, and imprisoned in a penitentiary for a term of not more than five years. (22 Stat. 60.)

See notes to section 1 of this act, ante, § 4290.

Similar provisions relating to certificates of identity were made by Act Sept. 13, 1888, c. 1015, § 11, post, § 4312, re-enacted by Act April 29, 1902, c. 641, § 1, post, § 4337, and relating to certificates of residence, by Act May 5, 1892, c. 60, § 8, post, § 4322.

§ 4295. (Act May 6, 1882, c. 126, § 8, as amended, Act July 5, 1884, c. 220.) Lists of Chinese passengers to be delivered by masters of vessels arriving from foreign ports; contents; penalty for failure.

The master of any vessel arriving in the United States from any foreign port or place shall, at the same time he delivers a manifest of the cargo, and if there be no cargo, then at the time of making a report of the entry of the vessel pursuant to law, in addition to the other matter required to be reported, and before landing, or permitting to land, any Chinese passengers, deliver and report to the collector of customs of the district in which such vessels shall have arrived a separate list of all Chinese passengers taken on board his vessel at any foreign port or place, and all such passengers on board the vessel at that time, such list shall show the names of such passengers (and if accredited officers of the Chinese or of any other foreign Government, traveling on the business of that Government, or their servants, with a note of such facts), and the names and other particulars as shown by their respective certificates; and such list shall be sworn to by the master in the manner required by law in relation to the manifest of the cargo. Any refusal or wilful neglect of any such master to comply with the provisions of this section shall incur the same penalties and forfeiture as are provided for a refusal or neglect
§ 4295 IMMIGRATION (Tit. 29)

to report and deliver a manifest of the cargo. (22 Stat. 60. 23 Stat. 117.)

See notes to section 1 of this act, ante, § 4290.

This section was amended by inserting in the parenthesis, after the words "and if accredited officers of the Chinese," the words "or of any other foreign," and by changing the words at the beginning of the last sentence from "Any willful refusal or neglect" to "Any refusal or willful neglect," making the section read as set forth here, by Act July 5, 1884, c. 220, cited above.

§ 4296. (Act May 6, 1882, c. 126, § 9.) Comparison of lists with certificates.

Before any Chinese passengers are landed from any such vessel, the collector, or his deputy, shall proceed to examine such passengers, comparing the certificates with the list and with the passengers; and no passenger shall be allowed to land in the United States from such vessel in violation of law. (22 Stat. 60.)

See notes to section 1 of this act, ante, § 4290.

In so far as this section relates to the right of Chinese laborers to re-enter the United States after having once departed therefrom, it must be regarded as superseded by Act Oct. 1, 1888, c. 1094, post, §§ 4303-4305.

A subsequent provision that in every case where an alien was excluded from admission into the United States under any law or treaty then existing or thereafter made, the decision of the appropriate immigration officers, if adverse to the admission of such alien, should be final, unless reversed on appeal to the Secretary of Commerce, was made by the Immigration Act of Feb. 20, 1907, c. 1134, § 25, ante, § 4274.

§ 4297. (Act May 6, 1882, c. 126, § 10, as amended, Act July 5, 1884, c. 220.) Forfeitures of vessels for violations of act.

Every vessel whose master shall knowingly violate any of the provisions of this act shall be deemed forfeited to the United States, and shall be liable to seizure and condemnation in any district of the United States into which such vessel may enter or in which she may be found. (22 Stat. 61. 23 Stat. 115.)

See notes to section 1 of this act, ante, § 4290.

The application of the provisions of this section was extended by Act Oct. 1, 1888, c. 1094, § 5, post, § 4305.

§ 4298. (Act May 6, 1882, c. 126, § 11, as amended, Act July 5, 1884, c. 220.) Bringing or landing Chinese laborers not entitled to enter, punishable.

Any person who shall knowingly bring into or cause to be brought into the United States by land, or who shall aid or abet the same, or aid or abet the landing in the United States from any vessel, of any Chinese person not lawfully entitled to enter the United States, shall be deemed guilty of a misdemeanor, and shall on conviction thereof, be fined in a sum not exceeding one thousand Dollars, and imprisoned for a term not exceeding one year. (22 Stat. 61. 23 Stat. 117.)

See notes to section 1 of this act, ante, § 4290.

This section was amended by changing the words "or who shall knowingly aid or abet the same," contained in the section as originally enacted, to "or who shall aid or abet the same," as set forth here, by Act July 5, 1884, c. 220, cited above.

The application of the provisions of this section was extended by Act Oct. 1, 1888, c. 1094, § 5, post, § 4305.

(1742)
§ 4299. (Act May 6, 1882, c. 126, § 12, as amended, Act July 5, 1884, c. 220.) Chinese not to enter United States by land without certificate; deportation of Chinese unlawfully within United States; expenses.

No Chinese person shall be permitted to enter the United States by land without producing to the proper officer of customs the certificate in this act required of Chinese persons seeking to land from a vessel. And any Chinese person found unlawfully within the United States shall be caused to be removed therefrom to the country from whence he came, and at the cost of the United States, after being brought before some justice, judge, or commissioner of a court of the United States and found to be one not lawfully entitled to be or to remain in the United States; and in all such cases the person who brought or aided in bringing such person to the United States shall be liable to the Government of the United States for all necessary expenses incurred in such investigation and removal; and all peace officers of the several States and Territories of the United States are hereby invested with the same authority as a marshal or United States marshal in reference to carrying out the provisions of this act or the act of which this is amendatory, as a marshal or deputy marshal of the United States, and shall be entitled to like compensation to be audited and paid by the same officers. And the United States shall pay all costs and charges for the maintenance and return of any Chinese person having the certificate prescribed by law as entitling such Chinese person to come into the United States who may not have been permitted to land from any vessel by reason of any of the provisions of this act. (22 Stat. 61. 23 Stat. 117.)

See notes to section 1 of this act, ante, § 4290.

This section was amended by striking out, after the words "to the country from whence he came," the words "by direction of the President of the United States," contained in the section as originally enacted, and by adding the provisions beginning with the words "and in all such cases," etc., to the end of the section as set forth here by Act July 5, 1884, c. 220, cited above.

The application of the provisions of this section was extended by Act Oct. 1, 1888, c. 1064, § 3, post, § 4305.

§ 4300. (Act May 6, 1882, c. 126, § 13, as amended, Act July 5, 1884, c. 220.) Diplomatic and other officers, their servants, etc., exempted from application of act.

This act shall not apply to diplomatic and other officers of the Chinese or other Governments traveling upon the business of that Government, whose credentials shall be taken as equivalent to the certificate in this act mentioned, and shall exempt them and their body and household servants from the provisions of this act as to other Chinese persons. (22 Stat. 61. 23 Stat. 118.)

See notes to section 1 of this act, ante, § 4290.

This section was amended by changing the words "Chinese Government," contained in the section as originally enacted, to "Chinese or other Governments," as set forth here, by Act July 5, 1884, c. 220, cited above.

§ 4301. (Act May 6, 1882, c. 126, § 15, as amended by Act July 5, 1884, c. 220.) Persons to whom act is applicable; "Chinese laborers" defined.

The provisions of this act shall apply to all subjects of China and
§ 4301

Chinese, whether subjects of China or any other foreign power; and the words Chinese laborers, wherever used in this act shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining. (22 Stat. 61. 23 Stat. 118.)

See notes to section 1 of this act, ante, § 4290.

This section was amended by inserting, at the beginning of the section, the words "That the provisions of this act shall apply to all subjects of China and Chinese, whether subjects of China or any other foreign power," and by adding two new sections, numbered 16 and 17, respectively, post, § 4302, by Act July 5, 1884, c. 220, cited above.

The word "laborer," as used in subsequent acts was defined by Act Nov. 3, 1883, c. 14, § 2, post, § 4224.

§ 4302. (Act May 6, 1882, c. 126, as amended, Act July 5, 1884, c. 220.) Violations of act punishable.

Any violation of any of the provisions of this act, or of the act of which this is amendatory, the punishment of which is not otherwise herein provided for, shall be deemed a misdemeanor, and shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment for not more than one year, or both such fine and imprisonment. (22 Stat. 58. 23 Stat. 118.)

See notes to section 1 of this act, ante, § 4290.

This section was added to Act May 6, 1882, c. 126, by amendment by Act July 5, 1884, c. 220, cited above.

Section 17, also added to Act May 6, 1882, c. 126, by the same amendment, provided that said amendatory act should not affect any prosecution, etc., begun under the original act. It is omitted, as temporary merely.


From and after the passage of this act, it shall be unlawful for any Chinese laborer who shall at any time heretofore have been, or who may now or hereafter be, a resident within the United States, and who shall have departed, or shall depart, therefrom, and shall not have returned before the passage of this act, to return to, or remain in, the United States. (25 Stat. 504.)

This section and the two sections next following were part of an act entitled "An act a supplement to an act entitled 'An act to execute certain treaty stipulations relating to Chinese,' approved the sixth day of May, eighteen hundred and eighty-two."

Section 4 of this act repealed all parts inconsistent therewith of said act to which this was a supplement.

The act referred to in the title of this act, to which this act was a supplement, Act May 6, 1882, c. 126, as amended by Act July 5, 1884, c. 220, ante, §§ 4230-4232, suspended the coming of Chinese laborers to the United States, but excepted from its provisions laborers in the United States, and provided for the identification of such laborers, and for evidence of their right to go from and come to the United States. These provisions were superseded by this act.

The act so referred to in the title of this act, as well as the amendatory act mentioned above, were repealed by Act Sept. 13, 1888, c. 1015, the repeal to take effect on the ratification of a pending treaty; but, the treaty not having been ratified, the repeal did not take effect.

In so far as the provisions of this act prohibited the return of a Chinese laborer who had a wife, child, or parent in the United States, or who had property therein of the value of $1,000, or debts of like amount due him and pending settlement, they were superseded by the provisions permitting any such laborer to return upon his compliance with the requirements as to securing (1744)
a certificate of right to return as the laws of the United States might then or thereafter require, not inconsistent with the treaty, contained in the Convention with China of Dec. 7, 1894, art. 2, post, § 4327, and by provisions for the return of such laborers and the issuance of certificates of right to return, contained in Act Sept. 13, 1888, c. 1015, §§ 6–8, ante, §§ 4293–4295, re-enacted by Act April 29, 1902, c. 641, § 1, post, § 4337.

The provisions of this act, like those of Act May 6, 1882, c. 126, to which it was a supplement, which were continued in force for a period of ten years by Act May 6, 1892, c. 60, § 1, post, § 4315, and which were not superseded by the treaty and acts referred to, and all laws prohibiting and regulating the coming of Chinese into the United States and their residence therein, in force at the time, were re-enacted, extended, and continued, and were also made applicable to the island territory under the jurisdiction of the United States, by Act April 26, 1902, c. 641, § 1, post, § 4337.

§ 4304. (Act Oct. 1, 1888, c. 1064, § 2.) Certificates of identity not to be issued, and those issued void.

No certificates of identity provided for in the fourth and fifth sections of the act to which this is a supplement shall hereafter be issued; and every certificate heretofore issued in pursuance thereof, is hereby declared void and of no effect, and the Chinese laborer claiming admission by virtue thereof shall not be permitted to enter the United States. (25 Stat. 504.)

See notes to section 1 of this act, ante, § 4290.

This section superseded the provisions of Act May 6, 1882, c. 126, §§ 4, 5, as amended by Act July 5, 1884, c. 220, until the provisions of this act were suspended by those of the Convention with China of Dec. 7, 1894, post, §§ 4328–4331.

§ 4305. (Act Oct. 1, 1888, c. 1064, § 3.) Duties, liabilities, penalties, and forfeitures under previous act extended.

All the duties prescribed, liabilities penalties and forfeitures imposed, and the powers conferred by the second, tenth, eleventh, and twelfth, sections of the act to which this is a supplement are hereby extended and made applicable to the provisions of this act. (25 Stat. 504.)

See notes to section 1 of this act, ante, § 4290.

Sections 2, 10–12, of Act May 6, 1882, c. 126, referred to in this section, are set forth ante, §§ 4291, 4297–4299. At the time of the passage of this act, the entire act of which those sections were part, and Act July 5, 1884, c. 220, amendatory thereof, had been repealed, and other provisions relating to the subject enacted, the repeal to take effect on the ratification of a treaty then pending, by Act Sept. 13, 1888, c. 1015, § 15, 25 Stat. 479, to which act no reference was made in this act. See notes to section 5 of said act, post, § 4306.


From and after the passage of this act, no Chinese laborer in the United States shall be permitted, after having left, to return thereto, except under the conditions stated in the following sections. (25 Stat. 477.)

Act Sept. 13, 1888, c. 1015, of which this section and the eight sections next following were part, was entitled "An act to prohibit the coming of Chinese laborers to the United States."

The act, by section 1 thereof, was to become effective from and after the date of the exchange of ratifications of a treaty between the United States and China signed March 12, 1888. That treaty was never ratified, but sec-
§ 4306 IMMIGRATION

Articles 5–11, 12, 13 of this act were expressly re-enacted by Act April 29, 1902, c. 641, § 1, post, § 4337.

The sections of the Act of Sept. 13, 1888, which were not so re-enacted, were as follows:

"Be it enacted, etc. That from and after the date of the exchange of ratifications of the pending treaty between the United States of America and His Imperial Majesty the Emperor of China, signed on the twelfth day of March, anno Domini eighteen hundred and eighty-eight, it shall be unlawful for any Chinese person, whether a subject of China or of any other power, to enter the United States, except as hereinafter provided.

"Sec. 2. That Chinese officials, teachers, students, merchants, or travelers for pleasure or curiosity, shall be permitted to enter the United States, but in order to entitle themselves to do so, they shall first obtain the permission of the Chinese Government, or other government of which they may at the time be citizens or subjects. Such permission and also their personal identity shall in such case be evidenced by a certificate to be made out by the diplomatic representative of the United States in the country, or of the consular representative at the port of the United States at the custom house of the person named therein comes. The certificate shall contain a full description of such person, of his age, height, and general physical features, and shall state his former and present occupation or profession and place of residence, and shall be made out in duplicate. One copy shall be delivered open to the person named and described, and the other copy shall be sealed up and delivered by the diplomatic or consular officer as aforesaid to the captain of the vessel on which the person named in the certificate sets sail for the United States, together with the sealed certificate, which shall be addressed to the collector of customs at the port where such person is to land. There shall be delivered to the aforesaid captain a letter from the consular officer addressed to the collector of customs aforesaid, and stating that said consular officer has on a certain day delivered to the said captain a certificate of the right of the person named therein to enter the United States as a Chinese official, or other exempted person, as the case may be. And any captain who lands or attempts to land a Chinese person in the United States, without having in his possession a sealed certificate, as required in this section shall be liable to the penalties prescribed in section nine of this act.

"Sec. 3. That the provisions of this act shall apply to all persons of the Chinese race, whether subjects of China or other foreign power, excepting Chinese diplomatic or consular officers and their attendants; and the words 'Chinese laborers,' whenever used in this act, shall be construed to mean both skilled and unskilled laborers and Chinese employed in mining.

"Sec. 4. That the master of any vessel arriving in the United States from any foreign port or place with any Chinese passengers on board shall, when he delivers his manifest of cargo, and if there be no cargo, when he makes legal entry of his vessel, and before landing or permitting to land any Chinese person (unless a diplomatic or consular officer, or attendant of such officer), deliver to the collector of customs of the district in which the vessel shall have arrived the sealed certificates and letters as aforesaid, and a separate list of all Chinese persons taken on board at the time of arrival as aforesaid. Such list shall show the names of such persons and other particulars as shown by their open certificates, or other evidences required by this act, and such list shall be sworn to by the master in the manner required by law in relation to the manifest of the cargo.

"The master of any vessel as aforesaid shall not permit any Chinese diplomatic or consular officer or attendant of such officer to land without having first been informed of the arrival of the collector of customs; and the collector of such officer or attendant. Any refusal or willful neglect of the master of any vessel to comply with the provisions of this section shall incur the same penalties and forfeitures as are provided for a refusal or neglect to report and deliver a manifest of the cargo."

"Sec. 12. That before any Chinese passengers are landed from any such vessel, the collector or his deputy, shall proceed to examine such passengers, comparing the certificates with the list and with the passengers; and no (1746)
passenger shall be allowed to land in the United States from such vessel in violation of law; and the collector shall in person decide all questions in dispute with regard to the right of any Chinese passenger to enter the United States, and his decision shall be subject to review by the Secretary of the Treasury, and not otherwise."

"Sec. 15. That the act entitled "An act to execute certain treaty stipulations relating to Chinese," approved May sixth, eighteen hundred and eighty-two, and an act to amend said act, approved July fifth, eighteen hundred and eighty-four, are hereby repealed to take effect upon the ratification of the pending treaty as provided in section one of this act."

Since the pending treaty referred to in this last section was not ratified, the repeal of the previous acts mentioned therein never became effective.

§ 4307. (Act Sept. 13, 1888, c. 1015, § 6.) Conditions under which Chinese laborers may return.

No Chinese laborer within the purview of the preceding section shall be permitted to return to the United States unless he has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. The marriage to such wife must have taken place at least a year prior to the application of the laborer for a permit to return to the United States, and must have been followed by the continuous cohabitation of the parties as man and wife.

If the right to return be claimed on the ground of property or of debts, it must appear that the property is bona fide and not colorably acquired for the purpose of evading this act, or that the debts are unascertained and unsettled, and not promissory notes or other similar acknowledgments of ascertained liability. (25 Stat. 477.)

See note to section 5 of this act, ante, § 4306.

§ 4308. (Act Sept. 13, 1888, c. 1015, § 7.) Identification of Chinese laborers claiming right to leave and return; certificates; limitation of time for return; ports at which Chinese may enter.

A Chinese person claiming the right to be permitted to leave the United States and return thereto on any of the grounds stated in the foregoing section, shall apply to the collector of customs of the district from which he wishes to depart at least a month prior to the time of his departure, and shall make on oath before the said collector a full statement descriptive of his family, or property, or debts, as the case may be, and shall furnish to said collector such proofs of the facts entitling him to return as shall be required by the rules and regulations prescribed from time to time by the Secretary of the Treasury, and for any false swearing in relation thereto he shall incur the penalties of perjury. He shall also permit the collector to take a full description of his person, which description the collector shall retain and mark with a number. And if the collector, after hearing the proofs and investigating all the circumstances of the case, shall decide to issue a certificate of return, he shall at such time, and place as he may designate, sign and give to the person applying a certificate containing the number of the description last aforesaid, which shall be the sole evidence given to such person of his right to return. If this last named certificate be transferred, it
§ 4308. Immigration

shall become void, and the person to whom it was given shall forfeit
his right to return to the United States. The right to return under
the said certificate shall be limited to one year; but it may be ex-
tended for an additional period, not to exceed a year, in cases where,
by reason of sickness or other cause of disability beyond his control,
the holder thereof shall be rendered unable sooner to return, which
facts shall be fully reported to and investigated by the consular rep-
resentative of the United States at the port or place from which such
laborer departs for the United States, and certified by such repre-
sentative of the United States to the satisfaction of the collector of
customs at the port where such Chinese person shall seek to land
in the United States, such certificate to be delivered by said repre-
sentative to the master of the vessel on which he departs for the
United States. And no Chinese laborer shall be permitted to re-
enter the United States without producing to the proper officer of
the customs at the port of such entry the return certificate herein re-
quired. A Chinese laborer possessing a certificate under this sec-
tion shall be admitted to the United States only at the port from
which he departed therefrom, and no Chinese person, except Chinese
diplomatic or consular officers, and their attendants, shall be permit-
ted to enter the United States except at the ports of San Francisco,
Portland, Oregon, Boston, New York, New Orleans, Port Town-
send, or such other ports as may be designated by the Secretary of
the Treasury. (25 Stat. 477.)

See note to section 5 of this act, ante, § 4306.

§ 4309. (Act Sept. 13, 1888, c. 1015, § 8.) Regulations, etc., to be
prescribed by Secretary of Treasury.

The Secretary of the Treasury shall be, and he hereby is, au-
thorized and empowered to make and prescribe, and from time to
time to change and amend such rules and regulations, not in con-
flict with this act, as he may deem necessary and proper to con-
veniently secure to such Chinese persons as are provided for in
articles second and third of the said treaty between the United
States and the Empire of China, the rights therein mentioned, and
such as shall also protect the United States against the coming
and transit of persons not entitled to the benefit of the provisions
of said articles. And he is hereby further authorized and empow-
ered to prescribe the form and substance of certificates to be is-
sued to Chinese laborers under and in pursuance of the provisions
of said articles, and prescribe the form of the record of such cer-
tificate and of the proceedings for issuing the same, and he may
require the deposit, as a part of such record, of the photograph
of the party to whom any such certificate shall be issued. (25
Stat. 478.)

See note to section 5 of this act, ante, § 4306, as to effect of failure of
ratification of the treaty referred to in this section.

§ 4310. (Act Sept. 13, 1888, c. 1015, § 9.) Masters of vessels land-
ing Chinese in contravention of act, punishable.

The master of any vessel who shall knowingly bring within the
United States on such vessel, and land, or attempt to land, or permit to be landed any Chinese laborer or other Chinese person, in contravention of the provisions of this act, shall be deemed guilty of a misdemeanor and, on conviction thereof, shall be punished with a fine of not less than five hundred dollars nor more than one thousand dollars, in the discretion of the court, for every Chinese laborer or other Chinese person so brought, and may also be imprisoned for a term of not less than one year, nor more than five years, in the discretion of the court. (25 Stat. 478.)

See note to section 5 of this act, ante, § 4306.
Provisions somewhat similar to those of this section were made by Act May 6, 1882, c. 126, § 2, as amended by Act July 5, 1884, c. 220, ante, § 4291.

§ 4311. (Act Sept. 13, 1888, c. 1015, § 10.) Masters of vessels in distress excepted from foregoing section.

The foregoing section shall not apply to the case of any master whose vessel shall come within the jurisdiction of the United States in distress or under stress of weather, or touching at any port of the United States on its voyage to any foreign port or place. But Chinese laborers or persons on such vessels shall not be permitted to land, except in case of necessity, and must depart with the vessel on leaving port. (25 Stat. 478.)

See note to section 5 of this act, ante, § 4306.
A similar exception was contained in Act May 6, 1882, c. 126, § 3, as amended by Act July 5, 1884, c. 220, ante, § 4292.

§ 4312. (Act Sept. 13, 1888, c. 1015, § 11.) Altering name in or forging certificate, or false personation of person named therein, punishable.

Any person who shall knowingly and falsely alter or substitute any name for the name written in any certificate herein required, or forge such certificate, or knowingly utter any forged or fraudulent certificate, or falsely personate any person named in any such certificate, and any person other than the one to whom a certificate was issued who shall falsely present any such certificate, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars, and imprisoned in a penitentiary for a term of not more than five years. (25 Stat. 478.)

See note to section 5 of this act, ante, § 4306.
Provisions similar to a great extent to those of this section were made by Act May 6, 1882, c. 126, § 7, ante, § 4294. And similar provisions relating to certificates of residence were made by Act May 5, 1892, c. 60, § 8, post, § 4822.


Any Chinese person, or person of Chinese descent, found unlawfully in the United States, or its Territories, may be arrested upon a warrant issued upon a complaint, under oath, filed by any party on behalf of the United States, by any justice, judge, or commissioner of any United States court, returnable before any justice, judge, or commissioner of a United States court, or before any United States court, and when convicted, upon a hearing, and found
§ 4318 IMMIGRATION (Tit. 29)

and adjudged to be one not lawfully entitled to be or remain in the United States, such person shall be removed from the United States to the country whence he came. But any such Chinese person convicted before a commissioner of a United States court may, within ten days from such conviction, appeal to the judge of the district court for the district. A certified copy of the judgment shall be the process upon which said removal shall be made, and it may be executed by the marshal of the district, or any officer having authority of a marshal under the provisions of this section. And in all such cases the person who brought or aided in bringing such person into the United States shall be liable to the Government of the United States for all necessary expenses incurred in such investigation and removal; and all peace officers of the several States and Territories of the United States are hereby invested with the same authority in reference to carrying out the provisions of this act, as a marshal or deputy marshal of the United States, and shall be entitled to like compensation, to be audited and paid by the same officers. (25 Stat. 479.)

See note to section 5 of this act, ante, § 4290.

Subsequent provisions relating to the removal of Chinese not lawfully in the United States, and specifying the place or places to which they shall be removed, are contained in Act May 5, 1882, c. 60, § 2, post, § 4516.

Chinese ordered deported by judicial writ are to be delivered into the custody of an officer designated for that purpose, by a provision of Act June 23, 1918, c. 3, § 1, post, § 4341.

§ 4314. (Act Sept. 13, 1888, c. 1015, § 14.) Chinese diplomatic and consular officers excepted from preceding sections.

The preceding sections shall not apply to Chinese diplomatic or consular officers or their attendants, who shall be admitted to the United States under special instructions of the Treasury Department, without production of other evidence than that of personal identity. (25 Stat. 479.)

See note to section 5 of this act, ante, § 4290.

An exception somewhat similar was contained in Act May 6, 1882, c. 126, § 13, as amended by Act July 5, 1884, c. 220, ante, § 4300, and also in Act May 6, 1882, c. 60, § 2, post, § 4316.

§ 4315. (Act May 5, 1892, c. 60, § 1.) Laws prohibiting coming of Chinese continued.

All laws now in force prohibiting and regulating the coming into this country of Chinese persons and persons of Chinese descent are hereby continued in force for a period of ten years from the passage of this act. (27 Stat. 25.)

This section and the eight sections next following were an act entitled "An act to prohibit the coming of Chinese persons into the United States."

The laws referred to and continued in force by this section were Act May 6, 1882, c. 126, as amended by Act July 5, 1884, c. 220, ante, §§ 4290–4302, which suspended for ten years the coming of Chinese laborers into the United States; such provisions of Act Sept. 13, 1888, c. 1015, as became operative notwithstanding the failure of ratification of the treaty referred to therein, ante, §§ 4305–4314; and Act Oct. 1, 1888, c. 1064, ante, §§ 4305–4305, a supplement to Act May 6, 1882, c. 126.

Other provisions prohibiting the transportation or importation of subjects (1750)
of China, etc., as coolies, or without their consent, were contained in Rev. St. §§ 2158–2163, post, §§ 4832–4834.

The immigration of Chinese laborers, except under conditions specified, was further prohibited by the convention of December 7, 1894, between the United States and China, post, §§ 4826–4831.

The provisions of this act, and all laws prohibiting and regulating the coming of Chinese into the United States and their residence therein, in force at the time, were re-enacted, extended, and continued, and were also made applicable to the island territory under the jurisdiction of the United States, by Act April 29, 1892, c. 641, § 1, post, § 4837.

On the establishment of the Department of Commerce and Labor and the transfer thereto from the Treasury Department of the Immigration Service, by Act Feb. 14, 1903, c. 552, ante, under Title XII A, "The Department of Commerce," the authority, power, and jurisdiction possessed and exercised by the Secretary of the Treasury by any law in relation to the exclusion from and the residence within the United States, its territories, and of Columbia, of Chinese and persons of Chinese descent were transferred to and conferred upon the Secretary of Commerce and Labor, and the authority, power, and jurisdiction in relation thereto vested by law or treaty in the collectors of customs and the collectors of internal revenue were conferred upon and vested in such officers under the control of the Commissioner-General of Immigration, as the Secretary of Commerce and Labor might designate therefor, by provisions of section 7 of that act, ante, § 856.

On the creation of the Department of Labor, the Commissioner-General of Immigration, the commissioners of immigration, the Bureau of Immigration and Naturalization and the Immigration Service at large, were transferred to that Department, and the duties and powers of the Secretary of Commerce and Labor with reference thereto were transferred to the Secretary of Labor, by Act March 4, 1912, c. 141, §§ 1, 8, ante, §§ 932, 934, 940.

§ 4316. (Act May 5, 1892, c. 60, § 2.) Removal of Chinese not entitled to be or remain in United States.

Any Chinese person or person of Chinese descent, when convicted and adjudged under any of said laws to be not lawfully entitled to be or remain in the United States, shall be removed from the United States to China, unless he or they shall make it appear to the justice, judge, or commissioner before whom he or they are tried that he or they are subjects or citizens of some other country, in which case he or they shall be removed from the United States to such country: Provided, That in any case where such other country of which such Chinese person shall claim to be a citizen or subject shall demand any tax as a condition of the removal of such person to that country, he or she shall be removed to China. (27 Stat. 25.)

See notes to section 1 of this act, ante, § 4315.

Provisions somewhat similar to those of this section were contained in Act Sept. 13, 1888, c. 1015, § 13, ante, § 4813, and were superseded by this section.

The designation of a commissioner, before whom a Chinese person arrested for being unlawfully within or for having unlawfully entered the United States should be taken for hearing, the fees of the commissioner for hearing and deciding such case, and the issuance of warrants of arrest for violations of the Chinese exclusion laws, were provided for by Act March 3, 1901, c. 845, post, §§ 4832–4834.

§ 4317. (Act May 5, 1892, c. 60, § 3.) Chinese person arrested must prove right to remain.

Any Chinese person or person of Chinese descent arrested under the provisions of this act or the acts hereby extended shall be adjudged to be unlawfully within the United States unless such
§ 4317    IMMIGRATION    (Tit. 29)

person shall establish, by affirmative proof, to the satisfaction of such justice, judge, or commissioner, his lawful right to remain in the United States. (27 Stat. 25.)

See notes to section 1 of this act, ante, § 4315.

§ 4318. (Act May 5, 1892, c. 60, § 4.) Chinese unlawfully in United States punishable.

Any such Chinese person or person of Chinese descent convicted and adjudged to be not lawfully entitled to be or remain in the United States shall be imprisoned at hard labor for a period of not exceeding one year and thereafter removed from the United States, as hereinbefore provided. (27 Stat. 25.)

See notes to section 1 of this act, ante, § 4315.

The provision of this section for imprisonment at hard labor before deportation was held unconstitutional in Wong Wing v. U. S., 163 U. S. 228, 16 Sup. Ct. 977, 41 L. Ed. 140.

§ 4319. (Act May 5, 1892, c. 60, § 5.) Habeas corpus proceedings by Chinese denied landing; bail not allowed.

After the passage of this act on an application to any judge or court of the United States in the first instance for a writ of habeas corpus, by a Chinese person seeking to land in the United States, to whom that privilege has been denied, no bail shall be allowed, and such application shall be heard and determined promptly without unnecessary delay. (27 Stat. 25.)

See notes to section 1 of this act, ante, § 4315.

A provision that in every case where an alien was excluded from admission into the United States under any law or treaty then existing or thereafter made, the decision of the appropriate immigration officers, if adverse to the admission of such alien, should be final, unless reversed on appeal to the Secretary of Commerce and Labor (now the Secretary of Labor), was made by the Immigration Act of Feb. 20, 1907, c. 1134, § 25, ante, § 4274.

§ 4320. (Act May 5, 1892, c. 60, § 6, as amended, Act Nov. 3, 1893, c. 14, § 1.) Certificates of residence; arrest and deportation of Chinese laborers not having certificate.

It shall be the duty of all Chinese laborers within the limits of the United States who were entitled to remain in the United States before the passage of the act to which this is an amendment to apply to the collector of internal revenue of their respective districts within six months after the passage of this act for a certificate of residence; and any Chinese laborer within the limits of the United States who shall neglect, fail, or refuse to comply with the provisions of this act and the act to which this is an amendment, or who, after the expiration of said six months, shall be found within the jurisdiction of the United States without such certificate of residence, shall be deemed and adjudged to be unlawfully within the United States, and may be arrested by any United States customs official, collector of internal revenue or his deputies, United States marshal or his deputies, and taken before a United States judge, whose duty it shall be to order that he be deported from the United States, as provided in this act and in the act to which this is an amendment; unless he shall establish clearly to the satisfaction of said judge that by reason of accident, sickness, or other unavoidable cause he has

(1752)
been unable to procure his certificate, and to the satisfaction of said United States judge, and by at least one credible witness other than Chinese, that he was a resident of the United States on the fifth of May, eighteen hundred and ninety-two; and if, upon the hearing, it shall appear that he is so entitled to a certificate, it shall be granted upon his paying the cost. Should it appear that said Chinaman had procured a certificate which has been lost or destroyed, he shall be detained and judgment suspended a reasonable time to enable him to procure a duplicate from the officer granting it, and in such cases the cost of said arrest and trial shall be in the discretion of the court; and any Chinese person, other than a Chinese laborer, having a right to be and remain in the United States, desiring such certificate as evidence of such right, may apply for and receive the same without charge; and that no proceedings for a violation of the provisions of said section six of said act of May fifth, eighteen hundred and ninety-two, as originally enacted, shall hereafter be instituted, and that all proceedings for said violation now pending are hereby discontinued: Provided, That no Chinese person heretofore convicted in any court of the States or Territories or of the United States of a felony shall be permitted to register under the provisions of this act; but all such persons who are now subject to deportation for failure or refusal to comply with the act to which this is an amendment shall be deported from the United States as in said act and in this act provided, upon any appropriate proceedings now pending or which may be hereafter instituted. (27 Stat. 25. 28 Stat. 7.)

See notes to section 1 of this act, ante, § 4315.

This section was amended by Act Nov. 3, 1893, c. 14, § 1, cited above, by numerous changes in the language, the principal effect of which was to extend the time for application for the certificate required, which, by the section as originally enacted, was one year after the passage of the act, to six months after the passage of the amendatory act, and by adding the provisions relating to proceedings under the original act, beginning with the words "and that no proceedings for a violation of the provisions of said section six," etc., to the end of the section as set forth here.

The proviso, beginning "Provided, That no Chinese person heretofore convicted," etc., was not included within the quotation marks indicating the extent of the amendment of this section as printed in the volume of the Statutes at Large containing the amendatory act (28 Stat. 8). It is however, so nearly related to the subject-matter of this section as amended that it is retained here.

The word "laborer," as used in this act, was defined, and further provisions relating to the execution of orders of deportation, and the requisites of certificates of residence, were made, by Act Nov. 3, 1893, c. 14, § 2, post, § 4324.

See, as to transfer of authority, powers, etc., in relation to Chinese exclusion, etc., of collectors of customs and collectors of internal revenue, to other officers, notes under section 1 of this act, ante, § 4315.

Provisions for the issuance of certificates of residence to Chinese in Hawaii were made by Act April 30, 1900, c. 339, § 101, post, § 4336, and to those in the other insular possessions, by Act April 20, 1922, c. 641, § 4, post, § 4339.

§ 4321. (Act May 5, 1892, c. 60, § 7.) Regulations, etc., to be prescribed for execution of act.

Immediately after the passage of this act, the Secretary of the Treasury shall make such rules and regulations as may be necessary for the efficient execution of this act, and shall prescribe the
§ 4321

IMMIGRATION

necessary forms and furnish the necessary blanks to enable collectors of internal revenue to issue the certificates required hereby, and make such provisions that certificates may be procured in localities convenient to the applicants, such certificates shall be issued without charge to the applicant, and shall contain the name, age, local residence and occupation of the applicant, and such other description of the applicant as shall be prescribed by the Secretary of the Treasury, and a duplicate thereof shall be filed in the office of the collector of internal revenue for the district within which such Chinaman makes application. (27 Stat. 26.)

See notes to section 1 of this act, ante, § 4315.
See, also, as to transfer of duties and powers, in relation to Chinese exclusion, etc., of the Secretary of the Treasury to the Secretary of Labor, and of the authority, etc., in relation thereto, of collectors of internal revenue, to other officers, notes under section 1 of this act, ante, § 4315.
Further requirements as to certificates of residence, and as to the photograph of the applicant to be contained therein, were made by Act Nov. 8, 1888, c. 14, § 2, post, § 4324.

§ 4322. (Act May 5, 1892, c. 60, § 8.) Altering name in or forging certificate, or false personation of person named therein, punishable.

Any person who shall knowingly and falsly alter or substitute any name for the name written in such certificate or forge such certificate, or knowingly utter any forged or fraudulent certificate, or falsely personate any person named in such certificate, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined in a sum not exceeding one thousand dollars or imprisoned in the penitentiary for a term of not more than five years. (27 Stat. 26.)

See note to section 1 of this act, ante, § 4315.
Similar provisions relating to certificates of identification were made by Act May 6, 1882, c. 128, § 7, ante, § 4294, and by Act Sept. 13, 1888, c. 1015, § 11, ante, § 4312.

§ 4323. (Act May 5, 1892, c. 60, § 9.) Compensation to officers for services under act.

The Secretary of the Treasury may authorize the payment of such compensation in the nature of fees to the collectors of internal revenue, for services performed under the provisions of this act in addition to salaries now allowed by law, as he shall deem necessary, not exceeding the sum of one dollar for each certificate issued. (27 Stat. 26.)

See notes to section 1 of this act, ante, § 4315.
The provisions of this section, so far as they authorized payment of compensation to collectors of internal revenue, and subsequent provisions relating thereto of Res. Dec. 7, 1893, No. 1, 28 Stat. 575, and Res. April 4, 1894, No. 19, 28 Stat. 581, were superseded by the transfer of the duties and powers, in relation to Chinese exclusion, of the Secretary of the Treasury to the Secretary of Labor, and of the authority, etc., in relation thereto, of collectors of internal revenue, to other officers, as stated in notes to section 1 of this act, ante, § 4315.
Certificates were to be issued without charge to the applicant by a provision of section 7 of this act, ante, § 4321.

(1764)
§ 4324. (Act Nov. 3, 1893, c. 14, § 2.) "Laborer" and "merchant" defined; proof required for entrance of merchant; deportation; certificate of residence to contain photograph.

The words "laborer" or "laborers," wherever used in this act, or in the act to which this is an amendment, shall be construed to mean both skilled and unskilled manual laborers, including Chinese employed in mining, fishing, huckstering, peddling, laundry-men, or those engaged in taking, drying, or otherwise preserving shell or other fish for home consumption or exportation.

The term "merchant," as employed herein and in the acts of which this is amendatory, shall have the following meaning and none other: A merchant is a person engaged in buying and selling merchandise, at a fixed place of business, which business is conducted in his name, and who during the time he claims to be engaged as a merchant, does not engage in the performance of any manual labor, except such as is necessary in the conduct of his business as such merchant.

Where an application is made by a Chinaman for entrance into the United States on the ground that he was formerly engaged in this country as a merchant, he shall establish by the testimony of two credible witnesses other than Chinese the fact that he conducted such business as hereinbefore defined for at least one year before his departure from the United States, and that during such year he was not engaged in the performance of any manual labor, except such as was necessary in the conduct of his business as such merchant, and in default of such proof shall be refused landing.

Such order of deportation shall be executed by the United States Marshal of the district within which such order is made, and he shall execute the same with all convenient dispatch; and pending the execution of such order such Chinese person shall remain in the custody of the United States Marshal, and shall not be admitted to bail.

The certificate herein provided for shall contain the photograph of the applicant, together with his name local residence and occupation, and a copy of such certificate, with a duplicate of such photograph attached, shall be filed in the office of the United States Collector of Internal Revenue of the district in which such Chinaman makes application.

Such photographs in duplicate shall be furnished by each applicant in such form as may be prescribed by the Secretary of the Treasury. (28 Stat. 8.)

This section was part of an act entitled "An act to amend an act entitled 'An act to prohibit the coming of Chinese persons into the United States,' approved May fifth, Eighteen hundred and Ninety-two."

Section 1 of this act amended section 6 of the act referred to in said title, to read as set forth ante, § 4320.

Previous provisions relating to the construction of the word "laborer" were contained in Act May 6, 1882, c. 126, § 15, as amended by Act July 5, 1884, c. 220, ante, § 4320, and in Act Sept. 15, 1886, c. 1015, § 3, quoted in note to section 5 of said act, ante, § 4306.

Previous provisions relating to the construction of the word "merchant" were contained in Act May 6, 1882, c. 126, § 6, as amended by Act July 5, 1882, c. 220, ante, § 4208.

The order of deportation referred to in this section was provided for by
§ 4324. IMMIGRATION

Act May 5, 1892, c. 60, § 6, as amended by section 1 of this act, ante, § 4320. Certificates of residence referred to in this section were provided for by Act May 5, 1892, c. 60, §§ 6, 7, ante, §§ 4320, 4321.

The provisions of this Act, like those of Act May 5, 1892, c. 60, which it amended and all laws prohibiting and regulating the coming of Chinese into the United States and their residence therein, in force at the time, were reenacted, extended, and continued, and were also made applicable to the island territory under the jurisdiction of the United States, by Act April 29, 1902, c. 641, § 1, post, § 4337.

See, as to transfer of duties and powers, in relation to Chinese exclusion, etc., of the Secretary of the Treasury to the Secretary of Labor, notes to Act May 5, c. 60, § 1, ante, § 4319.

§ 4325. (Act Aug. 18, 1894, c. 301, § 1.) Decisions of immigration officers excluding from admission final unless reversed on appeal.

In every case where an alien is excluded from admission into the United States under any law or treaty now existing or hereafter made, the decision of the appropriate immigration or customs officers, if adverse to the admission of such alien, shall be final, unless reversed on appeal to the Secretary of the Treasury. (28 Stat. 390.)

This was a provision of the sundry civil appropriation act for the fiscal year 1895, cited above.

The provision applied in terms to decisions excluding any alien, but it was superseded, as to cases of immigrants generally, by provisions for their examination by immigrant inspectors and boards of special inquiry, also making the decisions of the appropriate immigration officers, if adverse to admission, final, unless reversed on appeal to the Secretary of Commerce and Labor, made by Act March 3, 1903, c. 1012, §§ 24, 25, 32 Stat. 1219, 1220, and Act Feb. 20, 1907, c. 1134, §§ 24, 25, ante, §§ 4274, 4275. But this provision may be regarded as remaining in force as applicable to decisions excluding Chinese persons.

§ 4326. (Convention with China, Dec. 8, 1894, Art. I.) Coming of Chinese laborers to United States to be prohibited.

The High Contracting Parties agree that for a period of ten years, beginning with the date of the exchange of the ratifications of this Convention, the coming, except under the conditions hereinafter specified, of Chinese laborers to the United States shall be absolutely prohibited. (28 Stat. 1210.)

A preamble to this convention was as follows:

"Whereas, on the 17th day of November A. D. 1880, and of Kwang-hu, the sixth year, tenth moon, fifteenth day, a Treaty was concluded between the United States and China for the purpose of regulating, limiting, or suspending the coming of Chinese laborers to, and their residence in, the United States;

"And whereas the Government of China, in view of the antagonism and much deprecated and serious disorders to which the presence of Chinese laborers has given rise in certain parts of the United States, desires to prohibit the emigration of such laborers from China to the United States;

"And whereas the two Governments desire to cooperate in prohibiting such emigration, and to strengthen in other ways the bonds of friendship between the two countries;

"And whereas the two Governments are desirous of adopting reciprocal measures for the better protection of the citizens or subjects of each within the jurisdiction of the other;

"Now, therefore, the President of the United States has appointed Walter Q. Gresham, Secretary of State of the United States, as his Plenipotentiary, and His Imperial Majesty, the Emperor of China has appointed Yang Tu, (1756)
officer of the second rank, Sub-Director of the Court of Sacrificial Worship, and Envoy Extraordinary and Minister Plenipotentiary to the United States of America, as his Plenipotentiary; and the said Plenipotentiaries having exhibited their respective Full Powers found to be in due and good form, have agreed upon the following articles:"

The convention was signed at Washington March 17, 1894; ratified advised by the Senate August 13, 1894; ratified by the President August 22, 1894; ratifications exchanged at Washington December 7, 1894; and ratification proclaimed December 8, 1894.

The Secretary of the Treasury was authorized to make rules and regulations to execute the provisions of this treaty, by Act April 29, 1902, c. 641, § 2, post, § 4338. But the authority possessed and exercised by the Secretary of the Treasury by virtue of any law in relation to the exclusion from and residence within the United States, its territories, and the District of Columbia, of Chinese and persons of Chinese descent, was transferred to and conferred upon the Secretary of Commerce and Labor, by a provision of the act establishing the Department of Commerce and Labor, Act Feb. 14, 1903, c. 552, § 7, ante, § 858.

On the establishment of the Department of Labor the powers and duties of the Secretary of Commerce and Labor, with reference to the laws relating to the exclusion from and residence within the United States, its territories, and the District of Columbia, were transferred to and conferred upon the Secretary of Labor, by Act March 4, 1913, § 8, ante, § 940.

The coming of Chinese laborers to the United States was suspended for a period of ten years by Act May 6, 1882, c. 128, § 1, as amended by Act July 5, 1894, c. 220, ante, § 4290; and the laws in force on the subject were continued for a period of ten years by Act May 5, 1892, c. 60, § 1, ante, § 4318, and were again re-enacted, extended, and continued without limitation and were made applicable to the island territory under the jurisdiction of the United States by Act April 29, 1902, c. 641, § 1, post, § 4337.

§ 4327. (Convention with China, Dec. 8, 1894, Art. II.) Preceding article not to apply to return to United States of certain laborers; certificates of right to return; limitation of time for return.

The preceding Article shall not apply to the return to the United States of any registered Chinese laborer who has a lawful wife, child, or parent in the United States, or property therein of the value of one thousand dollars, or debts of like amount due him and pending settlement. Nevertheless every such Chinese laborer shall, before leaving the United States, deposit, as a condition of his return, with the collector of customs of the district from which he departs, a full description in writing of his family, or property, or debts, as aforesaid, and shall be furnished by said collector with such certificate of his right to return under this Treaty as the laws of the United States may now or hereafter prescribe and not inconsistent with the provisions of this Treaty; and should the written description aforesaid be proved to be false, the right of return thereunder, or of continued residence after return, shall in each case be forfeited. And such right of return to the United States shall be exercised within one year from the date of leaving the United States; but such right of return to the United States may be extended for an additional period, not to exceed one year, in cases where by reason of sickness or other cause of disability beyond his control, such Chinese laborer shall be rendered unable sooner to return—which facts shall be fully reported to the Chinese consul at the port of departure, and by him certified, to the satisfaction of the collector of the port at which (1757)
such Chinese subject shall land in the United States. And no such Chinese laborer shall be permitted to enter the United States by land or sea without producing to the proper officer of the customs the return certificate herein required. (28 Stat. 1210.)

See note to Art. I of this treaty, ante, § 4326.

Provisions for return of Chinese laborers under conditions similar to those prescribed by this article, and relating to certificates, time for return, etc., were contained in Act Sept. 15, 1888, c. 1015, §§ 6, 7, ante, §§ 4307, 4308.

This article superseded the provisions forbidding the return of Chinese laborers of Act Oct. 1, 1888, c. 1064, § 1, ante, § 4308, in so far as those provisions referred to laborers of the classes described in this article.

§ 4328. (Convention with China, Dec. 8, 1894, Art. III.) Classes of Chinese permitted to enter; privilege of transit of laborers.

The provisions of this Convention shall not affect the right at present enjoyed of Chinese subjects, being officials, teachers, students, merchants or travelers for curiosity or pleasure, but not laborers, of coming to the United States and residing therein. To entitle such Chinese subjects as are above described to admission into the United States, they may produce a certificate from their Government or the Government where they last resided vized by the diplomatic or consular representative of the United States in the country or port whence they depart.

It is also agreed that Chinese laborers shall continue to enjoy the privilege of transit across the territory of the United States in the course of their journey to or from other countries, subject to such regulations by the Government of the United States as may be necessary to prevent said privilege of transit from being abused. (28 Stat. 1211.)

See note to Art. I of this treaty, ante, § 4326.

Provisions for the coming to the United States of Chinese other than laborers, and for certificates of identity of such persons, were made by Act May 5, 1882, c. 126, § 6, as amended by Act July 5, 1884, c. 220, ante, § 4293, and Act Sept. 13, 1888, c. 1015, § 2, quoted in note to Act Sept. 13, 1888, c. 1015, § 5, ante, § 4312.

The words "laborer" and "merchant" as used in those acts, were defined in Act Nov. 8, 1888, c. 14, § 2, ante, § 4324.


In pursuance of Article III of the Immigration Treaty between the United States and China, signed at Peking on the 17th day of November, 1880, (the 15th day of the tenth month of Kwanghsu, sixth year) it is hereby understood and agreed that Chinese laborers or Chinese of any other class, either permanently or temporarily residing in the United States, shall have for the protection of their persons and property all rights that are given by the laws of the United States to citizens of the most favored nation, excepting the right to become naturalized citizens. And the Government of the United States reaffirms its obligation, as stated in said Article III, to exert all its power to secure protection to the persons

(1758)
IMMIGRATION § 4332

and property of all Chinese subjects in the United States. (28 Stat. 1211.)

See note to Art. I of this treaty, ante, § 4326.

Article III of the treaty of November 17, 1880, 22 Stat. 820, referred to in this article, was as follows: "If Chinese laborers, or Chinese of any other class, now either permanently or temporarily residing in the territory of the United States, meet with ill-treatment at the hands of any other person, the Government of the United States will exert all its power to devise measures for their protection and to secure to them the same rights, privileges, immunities, and exemptions as may be enjoyed by the citizens or subjects of the most favored nation, and to which they are entitled by treaty."


The Government of the United States, having by an Act of the Congress, approved May 5, 1892, as amended by an Act approved November 3, 1893, required all Chinese laborers lawfully within the limits of the United States before the passage of the first named Act to be registered as in said Acts provided, with a view of affording them better protection, the Chinese Government will not object to the enforcement of such acts, and reciprocally the Government of the United States recognizes the right of the Government of China to enact and enforce similar laws or regulations for the registration, free of charge, of all laborers, skilled or unskilled, (not merchants as defined by said Acts of Congress), citizens of the United States in China, whether residing within or without the treaty ports. And the Government of the United States agree that within twelve months from the date of the exchange of the ratifications of this Convention, and annually, thereafter, it will furnish to the Government of China registers or reports showing the full name, age, occupation and number or place of residence of all other citizens of the United States, including missionaries, residing both within and without the treaty ports of China, not including, however, diplomatic and other officers of the United States residing or travelling in China upon official business, together with their body and household servants. (28 Stat. 1211.)

See note to Art. I of this treaty, ante, § 4326.

Act May 5, 1892, c. 60, § 6, as amended by Act Nov. 3, 1893, c. 14, is set forth ante, § 4289.

§ 4331. (Convention with China, Dec. 8, 1894, Art. VI.) Time convention to remain in force; notice of termination.

This Convention shall remain in force for a period of ten years beginning with the date of the exchange of ratifications, and, if six months before the expiration of the said period of ten years, neither Government shall have formally given notice of its final termination to the other, it shall remain in full force for another like period of ten years. (28 Stat. 1212.)

See note to Art. I of this treaty, ante, § 4326.


It shall be lawful for the district attorney of the district in which
§ 4332  IMMIGRATION  (Tit. 29)

any Chinese person may be arrested for being found unlawfully within the United States, or having unlawfully entered the United States, to designate the United States commissioner within such district before whom such Chinese person shall be taken for hearing. (31 Stat. 1093.)

This section and the two sections next following were part of an act entitled "An act supplementary to an act entitled 'An act to prohibit the coming of Chinese persons into the United States,' approved May 5, Eighteen hundred and ninety-two, and fixing the compensation of commissioners in such cases."

The removal of Chinese persons unlawfully within the United States was provided for, and proceedings thereon were regulated, by Act Sept. 13, 1888, c. 1015, § 18, and Act May 5, 1892, c. 60. §§ 2, 3, ante, §§ 4313, 4316, 4317.

The provisions of this act, like those of Act May 5, 1892, c. 60, to which it was supplementary, and all laws prohibiting and regulating the coming of Chinese into the United States and their residence therein, in force at the time, were re-enacted, extended, and continued, and were also made applicable to the island territory under the jurisdiction of the United States, by Act April 29, 1902, c. 641, § 1, post, § 4337.

§ 4333. (Act March 3, 1901, c. 845, § 2.) Fees of commissioners in cases under Chinese exclusion laws.

A United States commissioner shall be entitled to receive a fee of five dollars for hearing and deciding a case arising under the Chinese-exclusion laws. (31 Stat. 1093.)

See note to section 1 of this act, ante, § 4332.


No warrant of arrest for violations of the Chinese-exclusion laws shall be issued by United States commissioners excepting upon the sworn complaint of a United States district attorney, assistant United States district attorney, collector, deputy collector, or inspector of customs, immigration inspector, United States marshal, or deputy United States marshal, or Chinese inspector, unless the issuing of such warrant of arrest shall first be approved or requested in writing by the United States district attorney of the district in which issued. (31 Stat. 1093.)

See note to section 1 of this act, ante, § 4332.

§ 4335. (Res. July 7, 1898, No. 55, § 1.) Exclusion of Chinese from Hawaii; entry into United States from Hawaii prohibited.

There shall be no further immigration of Chinese into the Hawaiian Islands, except upon such conditions as are now or may hereafter be allowed by the laws of the United States; no Chinese, by reason of anything herein contained, shall be allowed to enter the United States from the Hawaiian Islands. (30 Stat. 751.)

This was a provision of the joint resolution for the annexation of Hawaii, cited above.

Provisions for the issuance of certificates of residence to Chinese in Hawaii were made by Act April 30, 1900, c. 330, § 101, post, § 4336.

(1760)
§ 4336. (Act April 30, 1900, c. 339, § 101.) Certificates of residence for Chinese in Hawaii at time of annexation; such Chinese not entitled to enter other parts of United States.

Chinese in the Hawaiian Islands when this Act takes effect may within one year thereafter obtain certificates of residence as required by “An Act to prohibit the coming of Chinese persons into the United States,” approved May fifth, eighteen hundred and ninety-two, as amended by an Act approved November third, eighteen hundred and ninety-three, entitled “An Act to amend an Act entitled ‘An Act to prohibit the coming of Chinese persons into the United States,’ approved May fifth, eighteen hundred and ninety-two,” and until the expiration of said year shall not be deemed to be unlawfully in the United States if found therein without such certificates: Provided, however, That no Chinese laborer, whether he shall hold such certificate or not, shall be allowed to enter any State, Territory, or District of the United States from the Hawaiian Islands. (31 Stat. 161.)

This section was part of the act organizing the Territory of Hawaii, cited above. Other sections of the act are set forth or referred to, ante, §§ 3694–3735.

The further immigration of Chinese into Hawaii, except as allowed by the laws of the United States, and the coming of Chinese from Hawaii to the United States, were prohibited by the joint resolution annexing Hawaii, Res. July 7, 1898, No. 55, § 1, ante, § 4335.

§ 4337. (Act April 29, 1902, c. 641, § 1, as amended, Act April 27, 1904, c. 1630, § 5.) Laws prohibiting and regulating coming and residence of Chinese, re-enacted, extended, and continued, and made applicable to island territory.

All laws in force on the twenty-ninth day of April, nineteen hundred and two, regulating, suspending, or prohibiting the coming of Chinese persons or persons of Chinese descent into the United States, and the residence of such persons therein, including sections five, six, seven, eight, nine, ten, eleven, thirteen, and fourteen of the Act entitled “An Act to prohibit the coming of Chinese laborers into the United States,” approved September thirteenth, eighteen hundred and eighty-eight, be, and the same are hereby, re-enacted, extended, and continued, without modification, limitation, or condition; and said laws shall also apply to the island territory under the jurisdiction of the United States, and prohibit the immigration of Chinese laborers, not citizens of the United States, from such island territory to the mainland territory of the United States, whether in such island territory at the time of cession or not, and from one portion of the island territory of the United States to another portion of said island territory: Provided, however, That said laws shall not apply to the transit of Chinese laborers from one island to another island of the same group; and any islands within the jurisdiction of any State or the District of Alaska shall be considered a part of the mainland under this section. (32 Stat. 176. 33 Stat. 428.)

This section and the two sections next following were part of an act entitled “An act to prohibit the coming into and to regulate the residence within the United States, its territories, and all territory under its juris-
§ 4337

IMMIGRATION

(Tit. 29)

dition, and the District of Columbia, of Chinese and persons of Chinese
descent."

This section as originally enacted in Act April 29, 1902, c. 641, § 1, cited
above, was as follows:

"Be it enacted, &c. That all laws now in force prohibiting and regulating
the coming of Chinese persons, and persons of Chinese descent, into the United
States, and the residence of such persons therein, including sections five, six,
seven, eight, nine, ten, eleven, thirteen, and fourteen of the Act entitled 'An
Act to prohibit the coming of Chinese laborers into the United States' approv-
ed September thirteenth, eighteen hundred and eighty-eight, be, and the same
are hereby, re-enacted, extended, and continued so far as the same are not in-
consistent with treaty obligations, until otherwise provided by law, and said
laws shall also apply to the island territory under the jurisdiction of the
United States, and prohibit the immigration of Chinese laborers, not citizens
of the United States, from such island territory to the mainland territory of
the United States, whether in such island territory at the time of cession or
not, and from one portion of the island territory of the United States to an-
other portion of said island territory: Provided, however, That said laws shall
not apply, § 29 to the transit of Chinese laborers from one island to another is-
land of the same group; and any islands within the jurisdiction of any State
or the District of Alaska shall be considered a part of the mainland under this
section."

It was amended by Act April 27, 1904, c. 1630, § 5, also cited above, to read
as set forth here. The amendment consisted, principally, in the insertion, after
the words "re-enacted, extended, and continued," instead of the words of the
original section, "so far as the same are not inconsistent with treaty obli-
gations, until otherwise provided by law," of the words, "without modification,
limitation, or condition."

The laws previously in force, which were re-enacted, extended, and contin-
ued by this section, are set forth ante, §§ 4290–4336.

The treaty obligations mentioned in this section as it was originally en-
acted are those imposed by the provisions of the Convention of December 8, 1894,
ante, §§ 4326–4331.

Further provisions for the enforcement in the insular territory of the laws
made applicable thereto by this section, were made by section 4 of this act.
post, § 4339, and by Act March 18, 1904, c. 716, § 1, and Act Feb. 6, 1905,
c. 463, § 6, ante, § 3911.

The authority, power, and jurisdiction, possessed and exercised by the Sec-
retary of the Treasury by virtue of any law in relation to the exclusion from
and residence within the United States, its territories, and the District of
Columbia, of Chinese and persons of Chinese descent, were transferred to and
conferred upon the Secretary of Commerce and Labor, and the authority, pow-
er, and jurisdiction in relation thereto vested by law or treaty in the col-
bectors of customs and the collectors of internal revenue were conferred upon
and vested in such officers under the control of the Commissioner-General of
Immigration as the Secretary of Commerce and Labor might designate there-
for, by provisions of the act establishing the Department of Commerce and
Labor, and transferring the immigration service to that department from the
Treasury Department, Act Feb. 14, 1903, c. 552, § 7, ante, § 538.

On the creation of the Department of Labor, the Commissioner-General of
Immigration, the commissioners of immigration, the Bureau of Immigration
and Naturalization and the Immigration Service at large were transferred to
that department from the Department of Commerce and Labor, and the du-
ties and powers of the Secretary of Commerce and Labor with reference thereto
were transferred to the Secretary of Labor, by Act March 4, 1913, c. 141,
§§ 1, 2, 8, and §§ 922, 934, 940. §§ 4795, 4796.

No Mongolian laborer is to be employed in the construction of irrigation
works by contract under Act June 17, 1902, c. 1093, by a proviso annexed
to section 4 of that act, post, § 4703.

Section 3 of this act provided that nothing in the provisions of this act or
any other act should be construed to prevent any foreign exhibitor, etc., at
any fair or exposition authorised by act of Congress, from bringing into the

(1762)
United States, under contract, mechanics, etc., natives of their respective foreign countries, for the purpose of making preparations for installing or conducting their exhibits or any business under any concession or privilege granted by the fair or exposition. The section, not being restricted to Chinese, but being, in terms, applicable to “any foreign exhibitor, representative, or citizen of any foreign nation,” for the admission of their employees, “natives of their respective foreign countries,” is set forth, ante, § 4247.


The Secretary of [Commerce and] Labor is hereby authorized and empowered to make and prescribe, and from time to time to change, such rules and regulations not inconsistent with the laws of the land as he may deem necessary and proper to execute the provisions of this Act and of the Acts hereby extended and continued and of the treaty of December eighth, eighteen hundred and ninety-four, between the United States and China, and with the approval of the President to appoint such agents as he may deem necessary for the efficient execution of said treaty and said Acts. (32 Stat. 176. 33 Stat. 591.)

See notes to section 1 of this act, ante, § 4337.

This section as originally enacted was amended by Res. April 28, 1904, No. 34, cited above, by striking out the words “Secretary of the Treasury” used therein, and inserting in lieu thereof the words “Secretary of Commerce and Labor,” as set forth here.

The words “Commerce and,” inclosed in brackets in this section, were superseded by the creation of the Department of Labor, with a Secretary of Labor as the head thereof, and by the transfer to said department from the Department of Commerce and Labor of the Commissioner-General of Immigration, the commissionners of immigration, the Bureau of Immigration and Naturalisation and the Immigration Service at large and by the vesting of all duties, powers and authority possessed by the Secretary of Commerce and Labor with reference to those officers and bureaus in the Secretary of Labor, by Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

A provision that in every case where an alien was excluded from admission into the United States under any law or treaty then existing or thereafter made, the decision of the appropriate immigration officers, if adverse to the admission of such alien, should be final, unless reversed on appeal to the Secretary of Commerce and Labor (now the Secretary of Labor), was made by the Immigration Act of Feb. 20, 1907, c. 1134, § 25, ante, § 4274.

The acts hereby extended and continued and the treaty of December 8, 1894, mentioned in this section, are set forth, ante, §§ 4290–4336.

Appropriations for the enforcement of this act were made available for the establishment and maintenance of the Berthillon system of identification at the various ports of entry, by a provision of Act April 28, 1904, c. 1762, § 1, post, § 4340.

The Philippine Commission was authorized and required to make regulations for the enforcement of section 4 of this act in the Philippine Islands by a provision of that section, post, § 4339. And the administration of the immigration laws of the United States in force in the Philippine Islands by the officers of the government thereof was authorized by provisions of Act March 18, 1904, c. 716, § 1, and Act Feb. 6, 1905, c. 453, § 6, ante, § 3911.

§ 4339. (Act April 29, 1902, c. 641, § 4.) Certificates of residence in insular territory; regulations for enforcement of section in Philippine Islands.

It shall be the duty of every Chinese laborer, other than a citizen, rightfully in, and entitled to remain in any of the insular
territory of the United States (Hawaii excepted) at the time of the passage of this Act, to obtain within one year thereafter a certificate of residence in the insular territory wherein he resides, which certificate shall entitle him to residence therein, and upon failure to obtain such certificate as herein provided he shall be deported from such insular territory; and the Philippine Commission is authorized and required to make all regulations and provisions necessary for the enforcement of this section in the Philippine Islands, including the form and substance of the certificate of residence so that the same shall clearly and sufficiently identify the holder thereof and enable officials to prevent fraud in the transfer of the same: Provided, however, That if said Philippine Commission shall find that it is impossible to complete the registration herein provided for within one year from the passage of this Act, said Commission is hereby authorized and empowered to extend the time for such registration for a further period not exceeding one year. (32 Stat. 177.)

See notes to section 1 of this act, ante, § 4337.
The laws made applicable to the island territory by section 1 of this act, ante, § 4337, by a proviso to that section were not to apply to the transit of Chinese laborers from one island to another island of the same group.
Provisions for the administration of the immigration laws of the United States in force in the Philippine Islands by the officers of the government thereof, were made by Act March 18, 1904, c. 718, § 1, and Act Feb. 6, 1905, c. 453, § 6, post, § 3911.

§ 4340. (Act April 28, 1904, c. 1762, § 1.) Use of Bertillon system of identification to prevent unlawful entry of Chinese into United States.

Enforcement of the Chinese-exclusion Act: To prevent unlawful entry of Chinese into the United States, by the appointment of suitable officers to enforce the laws in relation thereto, and for expenses of returning to China all Chinese persons found to be unlawfully in the United States, including the cost of imprisonment and actual expense of conveyance of Chinese persons to the frontier or seaport for deportation, six hundred thousand dollars, of which sum one thousand dollars per annum shall be paid to the Commissioner-General of Immigration as additional compensation: Provided, That so much of the amount hereby appropriated, or hereafter appropriated for similar purposes, as may be necessary shall be available for the establishment and maintenance of the Bertillon system of identification at the various ports of entry; but this proviso shall not apply to persons embraced in Article Three of the treaty with China of eighteen hundred and ninety-four. (33 Stat. 478.)

This was a provision of the sundry civil appropriation act for the fiscal year 1905, cited above.
Article 3 of the treaty with China of 1894, mentioned in this provision, Convention Dec. 8, 1894, art. III, is set forth ante, § 4328.
An appropriation for enforcement of the Chinese Exclusion Act, in language similar to the provision of this paragraph preceding the proviso, was made in the sundry civil appropriation act for each subsequent year, included, in recent years, in the appropriation for expenses of regulating immigration. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 8, § 1, 38 Stat. 65.

(1764)
§ 4341. (Act June 23, 1913, c. 3, § 1.) Officer to be designated to deport Chinese.

From and after July first, nineteen hundred and thirteen, all Chinese persons ordered deported under judicial writs shall be delivered by the marshal of the district or his deputy into the custody of any officer designated for that purpose by the Secretary of [Commerce and] Labor, for conveyance to the frontier or seaboard for deportation in the same manner as aliens deported under the immigration laws. (38 Stat. 65.)

This was a provision accompanying an appropriation for the immigration service in the sundry civil appropriation act for the fiscal year 1914, cited above.

The words "Commerce and," inclosed in brackets in this provision, were superseded by the creation of the Department of Labor, with a Secretary of Labor as the head thereof, and by the transfer to said Department from the Department of Commerce and Labor of the Immigration Service, and the vesting of all duties, powers, and authority possessed by the Secretary of Commerce and Labor with reference thereto in the Secretary of Labor, by Act March 4, 1913, c. 141, §§ 1, 3, 8, ante, §§ 932, 934, 940.

CHAPTER C

The Cooly-Trade

This chapter includes the provisions against the cooly-trade of R. S. §§ 2158-2163, and the additional provisions relating thereto of Act March 3, 1875, c. 141, 18 Stat. 477.

§ 4342. (R. S. § 2158.) Cooly-trade prohibited.

No citizen of the United States, or foreigner coming into or residing within the same, shall, for himself or for any other person, either as master, factor, owner, or otherwise, build, equip, load, or otherwise prepare, any vessel, registered, enrolled, or licensed, in the United States, for the purpose of procuring from any port or place the subjects of China, Japan, or of any other oriental country, known as "coolies," to be transported to any foreign port, or place, to be disposed of, or sold, or transferred, for any time, as servants or apprentices, or to be held to service or labor.


Violations of this section were made punishable by R. S. § 2161, post. § 4345.

Contracting to supply labor of coolies or others brought into the United States in violation of this section, or of any other section prohibiting the cooly trade was made punishable by Act March 3, 1875, c. 141, § 4, post. § 4350.

See also, the various acts of Congress relating to the exclusion of Chinese laborers, ante, Chapter C, "Exclusion of Chinese."
§ 4343. (R. S. § 2159.) Vessels employed in cooly-trade shall be forfeited.

If any vessel, belonging in whole or in part to a citizen of the United States, and registered, enrolled, or otherwise licensed therein, be employed in the "cooly-trade," so called, contrary to the provisions of the preceding section, such vessel, her tackle, apparel, furniture, and other appurtenances, shall be forfeited to the United States, and shall be liable to be seized, prosecuted, and condemned in any of the circuit courts or district courts of the United States for the district where the vessel may be found, seized, or carried.


§ 4344. (R. S. § 2160.) Building vessels to engage in cooly-trade, how punished.

Every person who so builds, fits out, equips, loads, or otherwise prepares, or who sends to sea, or navigates, as owner, master, factor, agent, or otherwise, any vessel, belonging in whole or part to a citizen of the United States, or registered, enrolled, or licensed within the same, knowing or intending that such vessel is to be or may be employed in that trade, contrary to the provisions of section twenty-one hundred and fifty-eight, shall be liable to a fine not exceeding two thousand dollars, and be imprisoned not exceeding one year.


R. S. § 2158, mentioned in this section, is set forth ante, § 4342.

§ 4345. (R. S. § 2161.) Punishment for engaging in cooly-trade.

Every citizen of the United States who, contrary to the provisions of section twenty-one hundred and fifty-eight, takes on board of any vessel, or receives or transports any such subjects as are described in that section, for the purpose of disposing of them in any way as therein prohibited, shall be liable to a fine not exceeding two thousand dollars and be imprisoned not exceeding one year.


R. S. § 2158, mentioned in this section, is set forth ante, § 4342.

Transporting subjects of China, Japan, etc., without their consent, for the purpose of holding them to service, was made punishable by Act March 3, 1875, c. 141, § 2, post, § 4349.

Holding or returning a person to peonage, or obstructing or preventing the enforcement of the provision relating thereto, was made punishable by R. S. §§ 5529, 5527, which were substantially re-enacted in Crim. Code, §§ 288, 289, post, §§ 10441, 10442, and repealed by Crim. Code, § 341, post, § 10515.

Bringing into the United States any person inveigled or forcibly kidnapped in any other country, with intent to hold such person in confinement or to any involuntary service, or selling into involuntary servitude any person, or holding to involuntary servitude any person so sold or brought, was made punishable by Act June 23, 1874, c. 404, 18 Stat. 251, which was substantially re-enacted in Crim. Code, § 271, post, § 10444, and was repealed by Crim. Code, § 341, post, § 10515.

§ 4346. (R. S. § 2162.) This Title not to interfere with voluntary emigration.

Nothing herein contained shall be deemed to apply to any voluntary emigration of the subjects specified in section twenty-one hundred and fifty-eight, or to any vessel carrying such person as passenger on board the same, but a certificate shall be prepared and signed by the
consul or consular agent of the United States residing at the port from which such vessel may take her departure, containing the name of such person, and setting forth the fact of his voluntary emigration from such port, which certificate shall be given to the master of such vessel; and the same shall not be given until such consul or consular agent is first personally satisfied by evidence of the truth of the facts therein contained.

R. S. § 2158, referred to in this section, is ante, § 4342.

The consular certificate provided for by this section was not to be given when the immigrant was found to have entered into a contract or agreement for a term of service within the United States for lewd and immoral purposes, by Act March 3, 1875, c. 141, § 1, post, § 4348.

§ 4347. (R. S. § 2163.) Examination of vessels.
The President is empowered, in such way and at such time as he may judge proper, to direct the vessels of the United States, and the masters and commanders thereof, to examine all vessels navigated or owned in whole or in part by citizens of the United States, and registered, enrolled, or licensed under the laws thereof, whenever in the judgment of such master or commanding officer, reasonable cause exists to believe that such vessel has on board any subjects of China, Japan, or other oriental country, known as "coolies;" and, upon sufficient proof that such vessel is employed in violation of the preceding provisions, to cause her to be carried, with her officers and crew, into any port or district within the United States, and delivered to the marshal of such district, to be held and disposed of according to law.

Act Feb. 19, 1862, c. 27, § 6, 12 Stat. 341.
Provisions for exclusion of Chinese laborers, etc., are collected in Chapter B, "Exclusion of Chinese."

§ 4348. (Act March 3, 1875, c. 141, § 1.) Inquiry and certificate by consular officer.

In determining whether the immigration of any subject of China, Japan, or any Oriental country, to the United States, is free and voluntary, as provided by section two thousand one hundred and sixty-two of the Revised Code, title "Immigration," it shall be the duty of the consul-general or consul of the United States residing at the port from which it is proposed to convey such subjects, in any vessels enrolled or licensed in the United States, or any port within the same, before delivering to the masters of any such vessels the permit or certificate provided for in such section, to ascertain whether such immigrant has entered into a contract or agreement for a term of service within the United States, for lewd and immoral purposes; and if there be such contract or agreement, the said consul-general or consul shall not deliver the required permit or certificate. (18 Stat. 477.)

This section and the two sections immediately following were part of an act entitled "An act supplementary to the acts in relation to immigration."
Sections 3 and 5 of this act prohibited the importation and immigration of convicts and of women for purposes of prostitution, and were superseded by similar provisions in Act March 3, 1903, c. 1012, §§ 2, 3, which were repealed by the Immigration Act of Feb. 20, 1907, c. 1134, § 43, ante, § 4289.
R. S. § 2162, mentioned in this section, is set forth ante, § 4346.

(1767)
§ 4349. (Act March 3, 1875, c. 141, § 2.) Involuntary transportation of Chinese, Japanese, etc., for purpose of holding to service, punishable; contracts void.

If any citizen of the United States, or other person amenable to the laws of the United States, shall take, or cause to be taken or transported, to or from the United States any subject of China, Japan, or any Oriental country, without their free and voluntary consent, for the purpose of holding them to a term of service, such citizen or other person shall be liable to be indicted therefor, and, on conviction of such offense, shall be punished by a fine not exceeding two thousand dollars and be imprisoned not exceeding one year; and all contracts and agreements for a term of service of such persons in the United States, whether made in advance or in pursuance of such illegal importation, and whether such importation shall have been in American or other vessels, are hereby declared void. (18 Stat. 477.)

See note to section 1 of this act, ante, § 4348.

§ 4350. (Act March 3, 1875, c. 141, § 4.) Contracting to supply cooly labor punishable.

If any person shall knowingly and willfully contract, or attempt to contract, in advance or in pursuance of such illegal importation, to supply to another the labor of cooly or other person brought into the United States in violation of section two thousand one hundred and fifty-eight of the Revised Statutes, or of any other section of the laws prohibiting the cooly-trade or of this act, such person shall be deemed guilty of a felony, and, upon conviction thereof, in any United States court, shall be fined in a sum not exceeding five hundred dollars and imprisoned for a term not exceeding one year. (18 Stat. 477.)

See note to section 1 of this act, ante, § 4348.

(1768)
TITLE XXX
NATURALIZATION

Sec. 4351. Exclusive jurisdiction to naturalize aliens conferred on courts specified; jurisdiction restricted to residents within judicial district; blank forms to be furnished; numbering and printing of certificates of naturalization.

4352. Proceedings for naturalization.
(1) Declaration of intention; requisites and contents; prior declarations.
(2) Petition for admission to citizenship; requisites and contents; verification by witnesses; filing certificate of arrival in United States and declaration of intention.
(3) Declaration on oath in open court to support constitution and laws of United States, and renunciation of other allegiance.
(4) Evidence of residence, character, etc.; witnesses.
(5) Renunciation of hereditary title, order of nobility, etc.
(6) Naturalization of widows and minor children of aliens dying after declaration of intention before being actually naturalized.

Sec. 4353. Notice of filing of petition, hearing thereon, etc.; subpoenas for witnesses.

4354. Time for filing petition and for final action thereon; change of name of alien on his naturalization.

4355. Aliens honorably discharged from military service.

4356. Aliens honorably discharged from service in Navy or Marine Corps.

4357. Naturalization of seamen.

4358. Aliens of African nativity and descent.

4359. Chinese not to be naturalized.

4360. Residence of five years in United States.

4361. Residence in Hawaiian Islands equivalent to residence in United States.

4362. Alien enemies not admitted.

Sec. 4363. Persons disbelieving or opposed to organized government, etc., or advocating, etc., the unlawful assaulting or killing of officers of government, or polygamists, not to be naturalized.

4364. Persons who cannot speak English language not to be naturalized; physical inability; prior declarations of intention; aliens making homestead entries on public lands.

4365. Naturalization of wife making homestead entry and minor children of aliens becoming insane after declaration of intention before being actually naturalized.

4366. Naturalization of persons not citizens who owe permanent allegiance to United States.

4367. Children of persons naturalized under certain laws to be citizens.

4368. Final hearing on petition in open court; record of final order; examination of applicant and witnesses.

4369. Evidence of residence in petition and at hearing.

4370. Appearance by United States and proceedings in opposition to granting of petition.

4371. Duties of clerks of courts; duplicates, etc., of declarations, certificates, petitions, etc.; penalty for failure to comply with provisions; responsibility for blank certificates of citizenship.

4372. Fees of clerks of courts; disposition of fees collected; deposit by petitioner for expenses and fees of witnesses; compensation from fees for additional clerical force required.

4373. Binding declaration of intention and petitions for naturalization as records of court; reference in certificate of naturalization to record of petition and stub of certificate.

4374. Cancellation of certificates fraudulently or illegally procured, or of certificates of persons taking (1769)
§ 4351. (Act June 29, 1906, c. 3592, § 3.) Exclusive jurisdiction to naturalize aliens conferred on courts specified; jurisdiction restricted to residents within judicial district; blank forms to be furnished; numbering and printing of certificates of naturalization.

Exclusive jurisdiction to naturalize aliens as citizens of the United States is hereby conferred upon the following specified courts:

United States circuit and district courts now existing, or which may hereafter be established by Congress in any State, United States district courts for the Territories of Arizona, New Mexico, Oklahoma, Hawaii, and Alaska, the supreme court of the District of Columbia, and the United States courts for the Indian Territory; also all courts of record in any State or Territory now existing, or which may hereafter be created, having a seal, a clerk, and jurisdiction in actions at law or equity, or law and equity, in which the amount in controversy is unlimited.

That the naturalization jurisdiction of all courts herein specified, State, Territorial, and Federal, shall extend only to aliens resident within the respective judicial districts of such courts.

The courts herein specified shall, upon the requisition of the clerks of such courts, be furnished from time to time by the Bureau of [Immigration and] Naturalization with such blank forms as may be required in the naturalization of aliens, and all certificates of naturalization shall be consecutively numbered and printed on safety paper furnished by said Bureau. (34 Stat. 596.)

This section was part of the Naturalization Act of 1906, entitled "An act to establish a Bureau of Immigration and Naturalization, and to provide for a uniform rule for the naturalization of aliens throughout the United States."

The words "Immigration and" inclosed in brackets in this section, were superseded by the division of the Bureau of Immigration and Naturalization, (1770)
theretofore in the Department of Commerce and Labor, into two bureaus to be known as the Bureau of Immigration and the Bureau of Naturalization in the Department of Labor, by the act creating the latter department, Act March 4, 1913, c. 141, § 3, ante, § 384.

Of the sections of the act preceding this section, section 1 changed the designation of the Bureau of Immigration in the Department of Commerce and Labor to Bureau of Immigration and Naturalization, gave it charge of all matters concerning Naturalization of aliens, and provided for registry of alien immigrants. Section 2 provided for the furnishing of the offices and for additional assistants, clerks, and other employees for the Bureau of Immigration and Naturalization, for the discharge of the duties imposed upon it by this act. Section 1 is set forth ante, § 983. Section 2 is omitted, as temporary, merely.

Of the sections of the act following this section, sections 4–15, 18, 20–24, 26–28, 30, are set forth post under this title.

Sections 16, 17, of the act, which made punishable forging, etc., certificates of citizenship, and engraving, etc., plates for counterfeiting such certificates, and other offenses in connection therewith, were incorporated in the Criminal Code, in sections 74, 75, thereof, post, §§ 10242, 10243, and were repealed by section 341 thereof, post, § 10615.

Section 19 of the act, which made punishable the having possession of any blank certificate of citizenship with intent unlawfully to use the same, was incorporated in the Criminal Code, in section 77 thereof, post, § 10245, and was repealed by section 341 thereof, post, § 10615.

Section 25 of the act provided that the existing naturalization laws should remain in effect for the purpose of the prosecution of offenses against them committed prior to the time this act should take effect. It is omitted, as temporary merely.

Section 29 of the act made an appropriation to carry its provisions into effect. It is omitted, as temporary merely.

Section 31 of the act provided that it should take effect ninety days from the date of its passage, with a proviso that sections 1, 2, 28, and 29 should go into effect from and after the passage of the act.

Previous provisions as to the jurisdiction of courts to admit aliens to citizenship were contained in R. S. § 2105, which was expressly repealed by section 26 of this act, post, § 4381.

Provisions validating acts of certain courts with respect to naturalization proceedings are referred to in the notes to Act June 29, 1906, c. 3624, § 1, post, § 4384.


An alien may be admitted to become a citizen of the United States in the following manner and not otherwise:

(1) Declaration of intention; requisites and contents; prior declarations.

First. He shall declare on oath before the clerk of any court authorized by this Act to naturalize aliens, or his authorized deputy, in the district in which such alien resides, two years at least prior to his admission, and after he has reached the age of eighteen years, that it is bona fide his intention to become a citizen of the United States, and to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly, by name, to the prince, potentate, state, or sovereignty of which the alien may be at the time a citizen or subject. And such declaration shall set forth the name, age, occupation, personal description, place of birth, last foreign residence and allegiance, the date of arrival, the name of the vessel, if any, in which he came to the United States, and the present place of residence in the United States of said alien: Provided, however, That no
alien who, in conformity with the law in force at the date of his declaration, has declared his intention to become a citizen of the United States shall be required to renew such declaration.

(2) Petition for admission to citizenship; requisites and contents; verification by witnesses; filing certificate of arrival in United States and declaration of intention.

Second. Not less than two years nor more than seven years after he has made such declaration of intention he shall make and file, in duplicate, a petition in writing, signed by the applicant in his own handwriting and duly verified, in which petition such applicant shall state his full name, his place of residence (by street and number, if possible), his occupation, and, if possible, the date and place of his birth; the place from which he emigrated, and the date and place of his arrival in the United States, and, if he entered through a port, the name of the vessel on which he arrived; the time when and the place and name of the court where he declared his intention to become a citizen of the United States; if he is married he shall state the name of his wife and, if possible, the country of her nativity and her place of residence at the time of filing his petition; and if he has children, the name, date, and place of birth and place of residence of each child living at the time of the filing of his petition: Provided, That if he has filed his declaration before the passage of this Act he shall not be required to sign the petition in his own handwriting.

Provided further, That any person belonging to the class of persons authorized and qualified under existing law to become a citizen of the United States who has resided constantly in the United States during a period of five years next preceding May first, nineteen hundred and ten, who, because of misinformation in regard to his citizenship or the requirements of the law governing the naturalization of citizens has labored and acted under the impression that he was or could become a citizen of the United States and has in good faith exercised the rights or duties of a citizen or intended citizen of the United States because of such wrongful information and belief may, upon making a showing of such facts satisfactory to a court having jurisdiction to issue papers of naturalization to an alien, and the court in its judgment believes that such person has been for a period of more than five years entitled upon proper proceedings to be naturalized as a citizen of the United States, receive from the said court a final certificate of naturalization, and said court may issue such certificate without requiring proof of former declaration by or on the part of such person of their intention to become a citizen of the United States, but such applicant for naturalization shall comply in all other respects with the law relative to the issuance of final papers of naturalization to aliens.

The petition shall set forth that he is not a disbeliever in or opposed to organized government, or a member of or affiliated with any organization or body of persons teaching disbelief in or opposed to organized government, a polygamist or believer in the practice of polygamy, and that it is his intention to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly by
name to the prince, potentate, state, or sovereignty of which he at the
time of filing of his petition may be a citizen or subject, and that it is
his intention to reside permanently within the United States, and
whether or not he has been denied admission as a citizen of the United
States, and, if denied, the ground or grounds of such denial, the court
or courts in which such decision was rendered, and that the cause for
such denial has since been cured or removed, and every fact material
to his naturalization and required to be proved upon the final hearing
of his application.

The petition shall also be verified by the affidavits of at least two
credible witnesses, who are citizens of the United States, and who
shall state in their affidavits that they have personally known the appli-
cant to be a resident of the United States for a period of at least five
years continuously, and of the State, Territory, or district in which
the application is made for a period of at least one year immediately
preceding the date of the filing of his petition, and that they each have
personal knowledge that the petitioner is a person of good moral char-
acter, and that he is in every way qualified, in their opinion, to be
admitted as a citizen of the United States.

At the time of filing his petition there shall be filed with the clerk
of the court a certificate from the Department of Commerce and Labor,
if the petitioner arrives in the United States after the passage of this
Act, stating the date, place, and manner of his arrival in the United
States, and the declaration of intention of such petitioner, which cer-
tificate and declaration shall be attached to and made a part of said
petition.

(3) Declaration on oath in open court to support constitution and
laws of United States, and renunciation of other allegiance.

Third. He shall, before he is admitted to citizenship, declare on oath
in open court that he will support the Constitution of the United States,
and that he absolutely and entirely renounces and abjures all allegiance
and fidelity to any foreign prince, potentate, state, or sovereignty, and
particularly by name to the prince, potentate, state, or sovereignty of
which he was before a citizen or subject; that he will support and
defend the Constitution and laws of the United States against all en-
emies, foreign and domestic, and bear true faith and allegiance to the
same.

(4) Evidence of residence, character, etc.; witnesses.

Fourth. It shall be made to appear to the satisfaction of the court
admitting any alien to citizenship that immediately preceding the date
of his application he has resided continuously within the United States
five years at least, and within the State or Territory where such court
is at the time held one year at least, and that during that time he has
behaved as a man of good moral character, attached to the principles
of the Constitution of the United States, and well disposed to the good
order and happiness of the same. In addition to the oath of the appli-
cant, the testimony of at least two witnesses, citizens of the United
States, as to the facts of residence, moral character, and attachment to
the principles of the Constitution shall be required, and the name,
§ 4352  NATURALIZATION  (Tit. 30)

place of residence, and occupation of each witness shall be set forth in the record.

(5) Renunciation of hereditary title, order of nobility, etc.
Fifth. In case the alien applying to be admitted to citizenship has borne any hereditary title, or has been of any of the orders of nobility in the kingdom or state from which he came, he shall, in addition to the above requisites, make an express renunciation of his title or order of nobility in the court to which his application is made, and his renunciation shall be recorded in the court.

(6) Naturalization of widows and minor children of aliens dying after declaration of intention before being actually naturalized.
Sixth. When any alien who has declared his intention to become a citizen of the United States dies before he is actually naturalized the widow and minor children of such alien may, by complying with the other provisions of this Act, be naturalized without making any declaration of intention. (34 Stat. 596. 36 Stat. 830.)

See notes to section 3 of this act, ante, § 4351.
The amendment of this section by Act June 25, 1910, c. 401, § 3, cited above, consisted in the addition to subdivision second thereof, after the proviso "That if he has filed his declaration before the passage of this act he shall not be required to sign the petition in his own handwriting," of the further proviso inserted in said subdivision second as set forth here.

Previous provisions relating to the same subject as those of this section were contained in R. S. §§ 2165, 2167, 2168, repealed by section 28 of this act, post, § 4351.
Forms of declaration of intention, of petition for naturalisation, and of affidavit of witnesses, required by this section, and of the certificate of citizenship to be issued thereon and the stub of such certificate, were prescribed by section 27 of this act, post, § 4382.
The mode of proof of residence required, in the petition and at the hearing thereon, was prescribed by section 10 of this act, post, § 4389.

When an alien, after declaration of intention, becomes insane before he is actually naturalized, and his wife thereafter makes a homestead entry under the land laws, she and their minor children may be naturalized without making declaration of intention, by Act Feb. 24, 1911, c. 151, post, § 4385.
The issue of passports to persons who have made declaration of intention to become citizens, and who have resided in the United States three years, was authorized by Act March 2, 1907, c. 2534, § 1, ante, § 3953.
Provisions for the naturalization of residents of Hawaii were made by Act April 30, 1900, c. 339, § 100, as amended by Act May 27, 1910, c. 258, § 9, post, § 4361.

§ 4353. (Act June 29, 1906, c. 3592, § 5.) Notice of filing of petition, hearing thereon, etc.; subpœnas for witnesses.
The clerk of the court shall, immediately after filing the petition, give notice thereof by posting in a public and conspicuous place in his office, or in the building in which his office is situated, under an appropriate heading, the name, nativity, and residence of the alien, the date and place of his arrival in the United States, and the date, as nearly as may be, for the final hearing of his petition, and the names of the witnesses whom the applicant expects to summon in his behalf; and the clerk shall, if the applicant requests it, issue a subpoena for the witnesses so named by the said applicant to appear upon the day set for the final hearing, but in case such witnesses can not be pro-
duced upon the final hearing other witnesses may be summoned.
(34 Stat. 598.)

See notes to section 3 of this act, ante, § 4351.

§ 4354. (Act June 29, 1906, c. 3592, § 6.) Time for filing petition and for final action thereon; change of name of alien on his naturalization.

Petitions for naturalization may be made and filed during term time or vacation of the court and shall be docketed the same day as filed, but final action thereon shall be had only on stated days, to be fixed by rule of the court, and in no case shall final action be had upon a petition until at least ninety days have elapsed after filing and posting the notice of such petition: Provided, That no person shall be naturalized nor shall any certificate of naturalization be issued by any court within thirty days preceding the holding of any general election within its territorial jurisdiction. It shall be lawful, at the time and as a part of the naturalization of any alien, for the court, in its discretion, upon the petition of such alien, to make a decree changing the name of said alien, and his certificate of naturalization shall be issued to him in accordance therewith. (34 Stat. 598.)

See note to section 3 of this act, ante, § 4351.

(R. S. § 2165. Repealed.)

This section designated the courts which had jurisdiction to admit aliens to citizenship, and prescribed the procedure for the naturalization of aliens in general and particular procedure for those who resided in the United States prior to January 29, 1795, and those who resided therein between June 18, 1798 and June 18, 1812. It was repealed by Act June 29, 1906, c. 3592, § 26, post, § 4351, and different provisions concerning the jurisdiction of courts and the procedure for naturalization of all aliens were made by §§ 3–14 of that act, ante, §§ 4351–4354, and post, §§ 4363–4373.

This section was amended by Act Feb. 1, 1876, c. 5, which provided that the declaration of intention to become a citizen might be made before the clerk of any court named in that section, and by validating declarations theretofore made before such clerks. That act became inoperative by the repeal of R. S. § 2165, by Act June 29, 1866, c. 3592, § 26, post, § 4351.

§ 4355. (R. S. § 2166.) Aliens honorably discharged from military service.

Any alien, of the age of twenty-one years and upward, who has enlisted, or may enlist, in the armies of the United States, either the regular or the volunteer forces, and has been, or may be hereafter, honorably discharged, shall be admitted to become a citizen of the United States, upon his petition, without any previous declaration of his intention to become such; and he shall not be required to prove more than one year's residence within the United States previous to his application to become such citizen; and the court admitting such alien shall, in addition to such proof of residence and good moral character, as now provided by law, be satisfied by competent proof of such person's having been honorably discharged from the service of the United States.

Act July 17, 1862, c. 200, § 21, 12 Stat. 597.

Provisions for naturalization, without previous declaration of intention, of aliens honorably discharged from the Navy or the Marine Corps, were made by Act July 26, 1894, c. 163, post, § 4356.

(1775)
§ 4356. (Act July 26, 1894, c. 165.) Aliens honorably discharged from service in Navy or Marine Corps.

Any alien of the age of twenty-one years and upward who has enlisted or may enlist in the United States Navy or Marine Corps, and has served or may hereafter serve five consecutive years in the United States Navy or one enlistment in the United States Marine Corps, and has been or may hereafter be honorably discharged, shall be admitted to become a citizen of the United States upon his petition, without any previous declaration of his intention to become such; and the court admitting such alien shall, in addition to proof of good moral character, be satisfied by competent proof of such person's service in and honorable discharge from the United States Navy or Marine Corps. (28 Stat. 124.)

This was a provision of the naval appropriation act for the fiscal year 1896, cited above.

At the time this provision was enacted, the term of enlistment in the Navy was fixed at 5 years by R. S. § 1418, as amended by Act May 12, 1879, c. 5. Since then the term of enlistment was reduced to 4 years by Act March 3, 1886, c. 413, § 10, ante, § 2576.

The term of enlistment in the Marine Corps was fixed at not less than 4 years by Act March 3, 1901, c. 892, ante, § 2821.

(R. S. § 2167. Repealed.)

This section provided for the naturalization of an alien who had resided in the United States 3 years next preceding his arriving at the age of 21 years, without having previously made a declaration of intention. It was repealed by Act June 29, 1906, c. 3592, § 26, post, § 4381.

(R. S. § 2168. Repealed.)

This section provided for the naturalization of the widow and children of an alien, who died after making a declaration of intention, but before naturalization. It was repealed by Act June 29, 1906, c. 3592, § 26, post, § 4381, and a somewhat similar provision was made by section 4, subsec. 6, of that act, ante, § 4392 (9).

§ 4357. (R. S. § 2174.) Naturalization of seamen.

Every seaman, being a foreigner, who declares his intention of becoming a citizen of the United States in any competent court, and shall have served three years on board of a merchant-vessel of the United States subsequent to the date of such declaration, may, on his application to any competent court, and the production of his certificate of discharge and good conduct during that time, together with the certificate of his declaration of intention to become a citizen, be admitted a citizen of the United States; and every seaman, being a foreigner, shall, after his declaration of intention to become a citizen of the United States, and after he shall have served such three years, be deemed a citizen of the United States for the purpose of manning and serving on board any merchant-vessel of the United States, anything to the contrary in any act of Congress notwithstanding; but such seaman shall, for all purposes of protection as an American citizen, be deemed such, after the filing of his declaration of intention to become such citizen.


(1776)
§ 4358. (R. S. § 2169, as amended, Act Feb. 18, 1875, c. 80, § 1.)
Aliens of African nativity and descent.
The provisions of this Title shall apply to aliens being free white persons, and to aliens of African nativity and to persons of African descent.

This section was amended by Act Feb. 18, 1875, c. 80, cited above, by inserting after the words "The provisions of this Title shall apply to aliens" the words "being free white persons, and to aliens," as set forth here.

§ 4359. (Act May 6, 1882, c. 126, § 14.) Chinese not to be naturalized.
Hereafter no State court or court of the United States shall admit Chinese to citizenship; and all laws in conflict with this act are hereby repealed. (22 Stat. 61.)

§ 4360. (R. S. § 2170.) Residence of five years in United States.
No alien shall be admitted to become a citizen who has not for the continued term of five years next preceding his admission resided within the United States.


§ 4361. (Act April 30, 1900, c. 339, § 100, as amended, Act May 27, 1910, c. 258, § 9.) Residence in Hawaiian Islands equivalent to residence in United States.
For the purposes of naturalization under the laws of the United States residence in the Hawaiian Islands prior to the taking effect of this Act shall be deemed equivalent to residence in the United States and in the Territory of Hawaii, and the requirement of a previous declaration of intention to become a citizen of the United States and to renounce former allegiance shall not apply to persons who have resided in said islands at least five years prior to the taking effect of this Act; but all other provisions of the laws of the United States relating to naturalization shall, so far as applicable, apply to persons in the said islands.
All records relating to naturalization, all declarations of intention to become citizens of the United States, and all certificates of naturalization filed, recorded, or issued prior to the taking effect of the naturalization Act of June twenty-ninth, nineteen hundred and six, in or from any circuit court of the Territory of Hawaii, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this Act further validated or legalized. (31 Stat. 161. 36 Stat. 448.)

This section was part of the act to organize the Territory of Hawaii, cited above.
This section, as originally enacted, contained only the first paragraph set forth here, relating to naturalization of residents in the Hawaiian Islands. The further paragraph, in regard to records relating to naturalization, etc., was added by amendment by Act May 27, 1910, c. 258, § 9, last cited above.
§ 4362. (R. S. § 2171.) Alien enemies not admitted.

No alien who is a native citizen or subject, or a denizen of any country, state, or sovereignty with which the United States are at war, at the time of his application, shall be then admitted to become a citizen of the United States.

Act April 14, 1802, c. 28, § 1, 2 Stat. 158. Act July 30, 1818, c. 36, 3 Stat. 53.

This section, as enacted in the Revised Statutes, contained a further provision that persons resident within the United States or its territories on June 18, 1812, who had before that day made declaration of intention to become citizens, or who were entitled to become citizens without such declaration, might be naturalized notwithstanding they were alien enemies at the time, and also a provision that nothing in the act should be construed to prevent the removal, agreeably to law, of any alien enemy at any time previous to his naturalization. These provisions are omitted as obsolete.

§ 4363. (Act June 29, 1906, c. 3592, § 7.) Persons disbelieving or opposed to organized government, etc., or advocating, etc., the unlawful assaulting or killing of officers of government, or polygamists, not to be naturalized.

No person who disbelieves in or who is opposed to organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief in or opposition to organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States, or of any other organized government, because of his or their official character, or who is a polygamist, shall be naturalized or be made a citizen of the United States. (34 Stat. 598.)

See notes to section 3 of this act, ante, § 4351.

Previous provisions similar to those of this section were contained in Act March 3, 1863, c. 1012, § 39, 32 Stat. 1222, repealed by section 26 of this act, post, § 4391.

Persons such as those described in and excluded from naturalization by this section, other than polygamists, are not to be permitted to enter the United States, and aiding or assisting any such person unlawfully to do so was made punishable by Act Feb. 20, 1907, c. 1134, § 38, ante, § 4287.

§ 4364. (Act June 29, 1906, c. 3592, § 8.) Persons who cannot speak English language not to be naturalized; physical inability; prior declarations of intention; aliens making homestead entries on public lands.

No alien shall hereafter be naturalized or admitted as a citizen of the United States who can not speak the English language: Provided, That this requirement shall not apply to aliens who are physically unable to comply therewith, if they are otherwise qualified to become citizens of the United States: And provided further, That the requirements of this section shall not apply to any alien who has prior to the passage of this Act declared his intention to become a citizen of the United States in conformity with the law in force at the date of making such declaration: Provided further, That the requirements of section eight shall not apply to aliens who shall hereafter declare their intention to become citizens and who shall make home-

(1778)
stead entries upon the public lands of the United States and comply in all respects with the laws providing for homestead entries on such lands. (34 Stat. 599.)

See note to section 3 of this act, ante, § 4351.

§ 4365. (Act Feb. 24, 1911, c. 151.) Naturalization of wife making homestead entry and minor children of aliens becoming insane after declaration of intention before being actually naturalized.

When any alien, who has declared his intention to become a citizen of the United States, becomes insane before he is actually naturalized, and his wife shall thereafter make a homestead entry under the land laws of the United States, she and their minor children may, by complying with the other provisions of the naturalization laws be naturalized without making any declaration of intention. (36 Stat. 929.)

This was an act entitled "An act providing for the naturalization of the wife and minor children of insane aliens, making homestead entries under the land laws of the United States."

A similar provision in case of death of an alien after declaration of intention was made by Act June 29, 1906, c. 3592, § 4, subd. 6, ante, § 4352 (6).

§ 4366. (Act June 29, 1906, c. 3592, § 30.) Naturalization of persons not citizens who owe permanent allegiance to United States.

All the applicable provisions of the naturalization laws of the United States shall apply to and be held to authorize the admission to citizenship of all persons not citizens who owe permanent allegiance to the United States, and who may become residents of any State or organized Territory of the United States, with the following modifications: The applicant shall not be required to renounce allegiance to any foreign sovereignty; he shall make his declaration of intention to become a citizen of the United States at least two years prior to his admission; and residence within the jurisdiction of the United States, owing such permanent allegiance, shall be regarded as residence within the United States within the meaning of the five years' residence clause of the existing law. (34 Stat. 606.)

See notes to section 3 of this act, ante, § 4351.

Rev. St. § 2170, ante, § 4360, forbids naturalization of an alien "who has not for the continued term of five years next preceding his admission resided within the United States."

§ 4367. (R. S. § 2172.) Children of persons naturalized under certain laws to be citizens.

The children of persons who have been duly naturalized under any law of the United States, or who, previous to the passing of any law on that subject, by the Government of the United States, may have become citizens of any one of the States, under the laws thereof, being under the age of twenty-one years at the time of the naturalization of their parents, shall, if dwelling in the United States, be considered as citizens thereof; and the children of persons who now are, or have been, citizens of the United States, shall, though born out of (1779)
§ 4367 NATURALIZATION

the limits and jurisdiction of the United States, be considered as citizens thereof.

Act April 14, 1802, c. 23, § 4, 2 Stat. 155.

The provisions of the first clause of this section, in so far as they apply to children of aliens born outside the United States, were superseded by somewhat similar provisions applicable to such children, of Act March 2, 1907, c. 2534, § 5, ante, § 4353.

Provisions somewhat similar to those of this section, relating to the children of citizens born outside of the United States, were made by R. S. § 1963, ante, § 3948; but such children who continue to reside outside the United States, in order to receive the protection of the Government, were required, upon attaining the age of 18 years, to record at an American consulate their intention to become residents and remain citizens of the United States, and, upon attaining their majority, to take the oath of allegiance to the United States, by Act March 2, 1907, c. 2534, § 6, ante, § 3963.

The last clause of this section provided that no person proscribed by any State or legally convicted of having joined the army of Great Britain during the Revolutionary War should be admitted to become a citizen without the consent of the legislature of the State in which such person was proscribed. It is omitted as obsolete.

(R. S. § 2173. Repealed.)

This section provided that the police court of the District of Columbia should have no power to naturalize foreigners. It was repealed by Act June 29, 1906, c. 3592, § 26, post, § 4381. The courts which should have jurisdiction to naturalize aliens were specified in section 8 of that act, ante, § 4351.

§ 4368. (Act June 29, 1906, c. 3592, § 9.) Final hearing on petition in open court; record of final order; examination of applicant and witnesses.

Every final hearing upon such petition shall be had in open court before a judge or judges thereof, and every final order which may be made upon such petition shall be under the hand of the court and entered in full upon a record kept for that purpose, and upon such final hearing of such petition the applicant and witnesses shall be examined under oath before the court and in the presence of the court. (34 Stat. 599.)

See notes to section 8 of this act, ante, § 4351.

§ 4369. (Act June 29, 1906, c. 3592, § 10.) Evidence of residence in petition and at hearing.

In case the petitioner has not resided in the State, Territory, or district for a period of five years continuously and immediately preceding the filing of his petition he may establish by two witnesses, both in his petition and at the hearing, the time of his residence within the State, provided that it has been for more than one year, and the remaining portion of his five years' residence within the United States required by law to be established may be proved by the depositions of two or more witnesses who are citizens of the United States, upon notice to the Bureau of Immigration and Naturalization and the United States attorney for the district in which said witnesses may reside. (34 Stat. 599.)

See notes to section 8 of this act, ante, § 4351.

§ 4370. (Act June 29, 1906, c. 3592, § 11.) Appearance by United States and proceedings in opposition to granting of petition.

The United States shall have the right to appear before any
court or courts exercising jurisdiction in naturalization proceedings for the purpose of cross-examining the petitioner and the witnesses produced in support of his petition concerning any matter touching or in any way affecting his right to admission to citizenship, and shall have the right to call witnesses, produce evidence, and be heard in opposition to the granting of any petition in naturalization proceedings. (34 Stat. 599.)

See notes to section 3 of this act, ante, § 4351.

§ 4371. (Act June 29, 1906, c. 3592, § 12.) Duties of clerks of courts; duplicates, etc., of declarations, certificates, petitions, etc.; penalty for failure to comply with provisions; responsibility for blank certificates of citizenship.

It is hereby made the duty of the clerk of each and every court exercising jurisdiction in naturalization matters under the provisions of this Act to keep and file a duplicate of each declaration of intention made before him and to send to the Bureau of [Immigration and] Naturalization at Washington, within thirty days after the issuance of a certificate of citizenship, a duplicate of such certificate, and to make and keep on file in his office a stub for each certificate so issued by him, whereon shall be entered a memorandum of all the essential facts set forth in such certificate. It shall also be the duty of the clerk of each of said courts to report to the said Bureau, within thirty days after the final hearing and decision of the court, the name of each and every alien who shall be denied naturalization, and to furnish to said Bureau duplicates of all petitions within thirty days after the filing of the same, and certified copies of such other proceedings and orders instituted in or issued out of said court affecting or relating to the naturalization of aliens as may be required from time to time by the said Bureau.

In case any such clerk or officer acting under his direction shall refuse or neglect to comply with any of the foregoing provisions he shall forfeit and pay to the United States the sum of twenty-five dollars in each and every case in which such violation or omission occurs, and the amount of such forfeiture may be recovered by the United States in an action of debt against such clerk.

Clerks of courts having and exercising jurisdiction in naturalization matters shall be responsible for all blank certificates of citizenship received by them from time to time from the Bureau of [Immigration and] Naturalization, and shall account for the same to the said Bureau whenever required so to do by such Bureau. No certificate of citizenship received by any such clerk which may be defaced or injured in such manner as to prevent its use as herein provided shall in any case be destroyed, but such certificate shall be returned to the said Bureau; and in case any such clerk shall fail to return or properly account for any certificate furnished by the said Bureau, as herein provided, he shall be liable to the United States in the sum of fifty dollars, to be recovered in an action of
§ 4371

NATURALIZATION

(Tit. 30

debt, for each and every certificate not properly accounted for or returned. (34 Stat. 599.)

See notes to section 3 of this act, ante, § 4351.

The words "Immigration and," inclosed in brackets where they occur twice in this section were superseded by the division of the Bureau of Immigration and Naturalization, theretofore in the Department of Commerce and Labor, into two bureaus to be known as the Bureau of Immigration and the Bureau of Naturalization in the Department of Labor, by the act creating the latter department, Act March 4, 1918, c. 141, § 3, ante, § 934.

Possession of blank certificates of citizenship with intent unlawfully to use the same was made punishable, by section 19 of this act, which was re-enacted as Crim. Code, § 77, post, § 10245, and was repealed by Crim. Code, § 341, post, § 10615.

§ 4372. (Act June 29, 1906, c. 3592, § 13, as amended, Act June 25, 1910, c. 401, § 1.) Fees of clerks of courts; disposition of fees collected; deposit by petitioner for expenses and fees of witnesses; compensation from fees for additional clerical force required.

The clerk of each and every court exercising jurisdiction in naturalization cases shall charge, collect, and account for the following fees in each proceeding:

For receiving and filing a declaration of intention and issuing a duplicate thereof, one dollar.

For making, filing, and docketing the petition of an alien for admission as a citizen of the United States and for the final hearing thereon, two dollars; and for entering the final order and the issuance of the certificate of citizenship thereunder, if granted, two dollars.

The clerk of any court collecting such fees is hereby authorized to retain one-half of the fees collected by him in such naturalization proceeding; the remaining one-half of the naturalization fees in each case collected by such clerks, respectively, shall be accounted for in their quarterly accounts, which they are hereby required to render the Bureau of [Immigration and] Naturalization, and paid over to such Bureau within thirty days from the close of each quarter in each and every fiscal year, and the moneys so received shall be paid over to the disbursing clerk of the Department of [Commerce and] Labor, who shall thereupon deposit them in the Treasury of the United States, rendering an account therefor quarterly to the Auditor for the State and other Departments, and the said disbursing clerk shall be held responsible under his bond for said fees so received.

In addition to the fees herein required, the petitioner shall, upon the filing of his petition to become a citizen of the United States, deposit with and pay to the clerk of the court a sum of money sufficient to cover the expenses of subpœnaing and paying the legal fees of any witnesses for whom he may request a subpœna, and upon the final discharge of such witnesses they shall receive, if they demand the same from the clerk, the customary and usual witness fees from the moneys which the petitioner shall have paid to such clerk for such purpose, and the residue, if any, shall be returned by the clerk to the petitioner: Provided, That the clerks of courts exercising jurisdiction in naturalization proceedings shall be permitted to retain one-half of

(1782)
the fees in any fiscal year up to the sum of three thousand dollars, and that all fees received by such clerks in naturalization proceedings in excess of such amount shall be accounted for and paid over to said Bureau as in case of other fees to which the United States may be entitled under the provisions of this Act. The clerks of the various courts exercising jurisdiction in naturalization proceedings shall pay all additional clerical force that may be required in performing the duties imposed by this Act upon the clerks of courts from fees received by such clerks in naturalization proceedings. And in case the clerk of any court exercising naturalization jurisdiction collects fees in excess of the sum of six thousand dollars in any fiscal year the Secretary of [Commerce and] Labor may allow salaries, for naturalization purposes only, to pay for clerical assistance, to be selected and employed by that clerk, additional to the clerical force, for which clerks of courts are required by this section to pay from fees received by such clerks in naturalization proceedings, if in the opinion of said Secretary the naturalization business of such clerk warrants further additional assistance: Provided, That in no event shall the whole amount allowed the clerk of a court and his assistants exceed the one-half of the gross receipts of the office of said clerk from naturalization fees during such fiscal year: Provided further, That when, at the close of any fiscal year, the business of such clerk of court indicates in the opinion of the Secretary of [Commerce and] Labor that the naturalization fees for the succeeding fiscal year will exceed six thousand dollars the Secretary of [Commerce and] Labor may authorize the continuance of the allowance of salaries for the additional clerical assistance herein provided for and employed on the last day of the fiscal year until such time as the remittances indicate in the opinion of said Secretary that the fees for the then current fiscal year will not be sufficient to allow the additional clerical assistance authorized by this Act.

That payment for the additional clerical assistance herein authorized shall be in the manner and under such regulations as the Secretary of [Commerce and] Labor may prescribe. (34 Stat. 600. 36 Stat. 829.)

See notes to section 3 of this act, ante, § 4351.

The words "Immigration and," inclosed in brackets in this section, were superseded by the division of the Bureau of Immigration and Naturalization, theretofore in the Department of Commerce and Labor, into two bureaus to be known as the Bureau of Immigration and the Bureau of Naturalization in the Department of Labor by the act creating the latter department, Act March 4, 1913, c. 141, § 3, ante, § 934. The words "Commerce and," also inclosed in brackets in the several places where they occur in this section, were superseded by the transfer to and conferring upon the head of the Department of Labor of all duties and powers possessed or exercised by the head of any department from which a bureau was transferred to the Department of Labor, by Act March 4, 1913, c. 141, § 8, ante, § 940.

The amendment of this section by Act June 25, 1910, c. 401, § 1, cited above, consisted in striking out the last sentence of the section as originally enacted, which read as follows: And in case the clerk of any court collects fees in excess of the sum of six thousand dollars in any one year, the Secretary of Commerce and Labor may allow to such clerk from the money which the United States shall receive additional compensation for the employment.
§ 4372

NATURALIZATION

§ 4372. (Tit. 30)

of additional clerical assistance, but for no other purpose, if in the opinion of the said Secretary the business of such clerk warrants such allowance," and inserting in lieu thereof the provision beginning "And in case the clerk of any court exercising naturalization jurisdiction," etc., to and including the two provisos following, to the end of the section as set forth here.

A provision of Act March 4, 1906, c. 299, § 1, 35 Stat. 883, limiting the compensation for additional clerical assistance and providing for regulation of expenditures therefor, was superseded by said amendment of this section.

Provisions for payment for such additional clerical assistance employed during the period from Sept. 27, 1906, to June 30, 1907, were contained in section 2 of said amendatory act, Act June 25, 1910, c. 401, § 2, 33 Stat. 830.

Any clerk or other officer willfully neglecting to account for moneys received by him for naturalization proceedings, or to pay over any balance thereof due, was to be deemed guilty of embezzlement, and punishable therefore, by section 20 of this act, post, § 4376.

The demand, etc., or receipt by a clerk, etc., of other or additional fees or moneys in naturalization proceedings save those specified herein was made a misdemeanor and punishable by section 21 of this act, post, § 4377.

§ 4373. (Act June 29, 1906, c. 3592, § 14.) Binding declaration of intention and petitions for naturalization as records of court; reference in certificate of naturalization to record of petition and stub of certificate.

The declarations of intention and the petitions for naturalization shall be bound in chronological order in separate volumes, indexed, consecutively numbered, and made part of the records of the court. Each certificate of naturalization issued shall bear upon its face, in a place prepared therefor, the volume number and page number of the petition wherein such certificate was issued, and the volume number and page number of the stub of such certificate. (34 Stat. 601.)

See notes to section 3 of this act, ante, § 4351.

§ 4374. (Act June 29, 1906, c. 3592, § 15.) Cancellation of certificates fraudulently or illegally procured, or of certificates of persons taking permanent residence in foreign country; proceedings, order and judgment, records, etc.; certificates issued under prior laws.

It shall be the duty of the United States district attorneys for the respective districts, upon affidavit showing good cause therefor, to institute proceedings in any court having jurisdiction to naturalize aliens in the judicial district in which the naturalized citizen may reside at the time of bringing the suit, for the purpose of setting aside and canceling the certificate of citizenship on the ground of fraud or on the ground that such certificate of citizenship was illegally procured. In any such proceedings the party holding the certificate of citizenship alleged to have been fraudulently or illegally procured shall have sixty days personal notice in which to make answer to the petition of the United States; and if the holder of such certificate be absent from the United States or from the district in which he last had his residence, such notice shall be given by publication in the manner provided for the service of summons by publication or upon absentees by the laws of the State or the place where such suit is brought.

If any alien who shall have secured a certificate of citizenship under the provisions of this Act shall, within five years after the issuance of (1784)
such certificate, return to the country of his nativity, or go to any
other foreign country, and take permanent residence therein, it shall
be considered prima facie evidence of a lack of intention on the part
of such alien to become a permanent citizen of the United States at
the time of filing his application for citizenship, and, in the absence
of countervailing evidence, it shall be sufficient in the proper proce-
ding to authorize the cancellation of his certificate of citizenship as
fraudulent, and the diplomatic and consular officers of the United
States in foreign countries shall from time to time, through the De-
partment of State, furnish the Department of Justice with the names
of those within their respective jurisdictions who have such certificates
of citizenship and who have taken permanent residence in the country
of their nativity, or in any other foreign country, and such statements,
duly certified, shall be admissible in evidence in all courts in proceed-
ings to cancel certificates of citizenship.

Whenever any certificate of citizenship shall be set aside or can-
celled, as herein provided, the court in which such judgment or decree
is rendered shall make an order canceling such certificate of citizenship
and shall send a certified copy of such order to the Bureau of [Im-
migration and] Naturalization; and in case such certificate was not
originally issued by the court making such order it shall direct the
clerk of the court to transmit a copy of such order and judg-
ment to the court out of which such certificate of citizenship shall
have been originally issued. And it shall thereupon be the duty
of the clerk of the court receiving such certified copy of the order
and judgment of the court to enter the same of record and to can-
cel such original certificate of citizenship upon the records and to no-
tify the [Bureau of Immigration] and Naturalization of such cancella-
tion.

The provisions of this section shall apply not only to certificates
of citizenship issued under the provisions of this Act, but to all certificates
of citizenship which may have been issued heretofore by any court
exercising jurisdiction in naturalization proceedings under prior laws.
(34 Stat. 601.)

See notes to section 3 of this act, ante, § 4351.
The words "Immigration and," Inclosed in brackets where they occur twice in
this section, were superseded by the division of the Bureau of Immigration
and Naturalization, theretofore in the Department of Commerce and Labor,
into two Bureaus to be known as the Bureau of Immigration and the Bureau
of Naturalization in the Department of Labor, by the act creating the latter
department, Act March 4, 1913, c. 141, § 3, ante, § 984.

On conviction of any person of knowingly procuring naturalization in
violation of the provisions of this act, the order admitting such person to
citizenship is to be adjudged void, by section 23 of this act, post, § 4378.

A naturalized citizen who resides for two years in the foreign state from
which he came, or for five years in any other foreign state, is to be pre-
sumed to have ceased to be an American citizen, by Act March 2, 1907, c.
2584, § 2, ante, § 3959.

§ 4375. (Act June 29, 1906, c. 3592, § 18.) Issuance of certificate
of citizenship contrary to provisions of act, a felony; punish-
ment.

It is hereby made a felony for any clerk or other person to issue
(1785)
or be a party to the issuance of a certificate of citizenship contrary to the provisions of this Act, except upon a final order under the hand of a court having jurisdiction to make such order, and conviction thereof such clerk or other person shall be punished by imprisonment for not more than five years and by a fine of not more than five thousand dollars, in the discretion of the court. (34 Stat. 602.)

See notes to section 3 of this act, ante, § 4351.

§ 4376. (Act June 29, 1906, c. 3592, § 20.) Neglect of clerk or other officer to account for or pay over balance of moneys received for naturalization proceedings, embezzlement; punishment.

Any clerk or other officer of a court having power under this Act to naturalize aliens, who willfully neglects to render true accounts of moneys received by him for naturalization proceedings or who willfully neglects to pay over any balance of such moneys due to the United States within thirty days after said payment shall become due and demand therefor has been made and refused, shall be deemed guilty of embezzlement of the public moneys, and shall be punishable by imprisonment for not more than five years, or by a fine of not more than five thousand dollars, or both. (34 Stat. 602.)

See notes to section 3 of this act, ante, § 4351.

§ 4377. (Act June 29, 1906, c. 3592, § 21.) Demand, etc., or receipt by clerk, etc., of fees or moneys other than those specified in act, a misdemeanor; punishment.

It shall be unlawful for any clerk of any court or his authorized deputy or assistant exercising jurisdiction in naturalization proceedings, or to demand, charge, collect, or receive any other or additional fees or moneys in naturalization proceedings save the fees and moneys herein specified; and a violation of any of the provisions of this section or any part thereof is hereby declared to be a misdemeanor and shall be punished by imprisonment for not more than two years, or by a fine of not more than one thousand dollars, or by both such fine and imprisonment. (34 Stat. 602.)

See notes to section 3 of this act, ante, § 4351.

§ 4378. (Act June 29, 1906, c. 3592, § 22.) False certification by clerk, etc., of appearance, oath, acknowledgment, etc., punishable.

The clerk of any court exercising jurisdiction in naturalization proceedings, or any person acting under authority of this Act, who shall knowingly certify that a petitioner, affiant, or witness named in an affidavit, petition, or certificate of citizenship, or other paper or writing required to be executed under the provisions of this Act, personally appeared before him and was sworn thereto, or acknowledged the execution thereof or signed the same, when in fact such petitioner, affiant, or witness did not personally appear before him, or was not sworn thereto, or did not execute the same, or did not acknowledge the execution thereof, shall be punished by a fine (1786)
not exceeding five thousand dollars, or by imprisonment not to exceed five years. (34 Stat. 603.)

See notes to section 3 of this act, ante, § 4351.

§ 4379. (Act June 29, 1906, c. 3592, § 23.) Procuring naturalization illegally punishable, and on conviction thereof, order admitting to citizenship to be adjudged void; aiding, etc., unauthorized proceedings for naturalization, or procuring or giving false testimony, etc., therein, punishable.

Any person who knowingly procures naturalization in violation of the provisions of this Act shall be fined not more than five thousand dollars, or shall be imprisoned not more than five years, or both, and upon conviction the court in which such conviction is had shall thereupon adjudge and declare the final order admitting such person to citizenship void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication. Any person who knowingly aids, advises, or encourages any person not entitled thereto to apply for or to secure naturalization, or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who knowingly makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not more than five thousand dollars, or imprisoned not more than five years, or both. (34 Stat. 603.)

See notes to section 3 of this act, ante, § 4351.


No person shall be prosecuted, tried, or punished for any crime arising under the provisions of this Act unless the indictment is found or the information is filed within five years next after the commission of such crime. (34 Stat. 603.)

See notes to section 3 of this act, ante, § 4351.


Sections twenty-one hundred and sixty-five, twenty-one hundred and sixty-seven, twenty-one hundred and sixty-eight, twenty-one hundred and seventy-three, of the Revised Statutes of the United States of America, and section thirty-nine of chapter one thousand and twelve of the Statutes at Large of the United States of America for the year nineteen hundred and three, and all Acts or parts of Acts inconsistent with or repugnant to the provisions of this Act are hereby repealed. (34 Stat. 603.)

See notes to section 3 of this act, ante, § 4351.

Act March 3, 1903, c. 1012, § 39, 32 Stat. 1222, repealed by this section, contained provisions similar to those of sections 7 and 23 of this act, ante, §§ 4363, 4379.

The then existing naturalization laws remained in full force and effect for the purpose of the prosecution of offenses committed prior to the going into effect of this act, by section 25 of this act, 34 Stat. 603, which is omitted as temporary merely.

(1787)
§ 4382. NATURALIZATION

§ 4382. (Act June 29, 1906, c. 3592, § 27.) Forms; declaration of intention; petition for naturalization; affidavit of witnesses; certificate of naturalization; stub of certificate.

Substantially the following forms shall be used in the proceedings to which they relate:

Declaration of Intention.

(Invalid for all purposes seven years after the date hereof.)

[Blank space for personal information]

I, ________, aged ______ years, occupation ______, do declare on oath (affirm) that my personal description is: Color ______, complexion ______, height ______, weight ______, color of hair ______, color of eyes ______, other visible distinctive marks ______; I was born in ______ on the ______ day of ______, anno Domini ______; I now reside at ______; I emigrated to the United States of America from ______ on the vessel ______; my last foreign residence was ______.

It is my bona fide intention to renounce forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to ______, of which I am now a citizen (subject); I arrived at the (port) of ______, in the State (Territory or District) of ______ on or about the ______ day of ______, anno Domini ______; I am not an anarchist; I am not a polygamist nor a believer in the practice of polygamy; and it is my intention in good faith to become a citizen of the United States of America and to permanently reside therein. So help me God.

(Original signature of declarant) ________

Subscribed and sworn to (affirmed) before me this ______ day of ______, anno Domini ______.

[Signature]

[Official character of attester]

Petition for Naturalization.

Court of ______.

In the matter of the petition of ______ to be admitted as a citizen of the United States of America.

To the ______ Court:

The petition of ______ respectfully shows:

First. My full name is ________.

Second. My place of residence is number ________, street, city of ________, State (Territory or District) of ________.

Third. My occupation is ________.

Fourth. I was born on the ______ day of ______ at ______.

Fifth. I emigrated to the United States from ______, on or about the ______ day of ______, anno Domini ______, and arrived at the port of ______, in the United States, on the vessel ______.

Sixth. I declared my intention to become a citizen of the United States on the ______ day of ______ at ______, in the ______ court of ______.

Seventh. I am — married. My wife's name is ________. She was born in ______ and now resides at ________. I have ______ children.

(1788)
and the name, date, and place of birth and place of residence of each of said children is as follows: __________; __________; __________.

Eighth. I am not a disbeliever in or opposed to organized government or a member of or affiliated with any organization or body of persons teaching disbelief in organized government. I am not a polygamist nor a believer in the practice of polygamy. I am attached to the principles of the Constitution of the United States, and it is my intention to become a citizen of the United States and to renounce absolutely and forever all allegiance and fidelity to any foreign prince, potentate, state, or sovereignty, and particularly to __________, of which at this time I am a citizen (or subject), and it is my intention to reside permanently in the United States.

Ninth. I am able to speak the English language.

Tenth. I have resided continuously in the United States of America for a term of five years at least immediately preceding the date of this petition, to wit, since __________, anno Domini __________, and in the State (Territory or District) of __________ for one year at least next preceding the date of this petition, to wit, since __________ day of __________, anno Domini: __________.

Eleventh. I have not heretofore made petition for citizenship to any court. (I made petition for citizenship to the __________ court of __________ at __________, and the said petition was denied by the said court for the following reasons and causes, to wit, __________, and the cause of such denial has since been cured or removed.)

Attached hereto and made a part of this petition are my declaration of intention to become a citizen of the United States and the certificate from the Department of [Commerce and] Labor required by law. Wherefore your petitioner prays that he may be admitted a citizen of the United States of America.

Dated __________.

(Signature of petitioner) __________.

__________, ss: __________, being duly sworn, deposes and says that he is the petitioner in the above-entitled proceeding; that he has read the foregoing petition and knows the contents thereof; that the same is true of his own knowledge, except as to matters therein stated to be alleged upon information and belief, and that as to those matters he believes it to be true.

Subscribed and sworn to before me this __________ day of __________, anno Domini __________.

[L. S.]

__________, ss: __________, Clerk of the __________ Court.

Affidavit of Witnesses.

__________ Court of __________.

In the matter of the petition of __________ to be admitted a citizen of the United States of America.

__________, ss: __________, occupation __________, residing at __________; and __________, occupation __________, residing at __________, each being severally, (1789)
duly, and respectively sworn, deposes and says that he is a citizen of
the United States of America; that he has personally known ———
the petitioner above mentioned, to be a resident of the United
States for a period of at least five years immediately immediately preceding
the date of filing his petition, and of the State (Territory
or District) in which the above-entitled application is made for a period
of ——— years immediately preceding the date of filing his
petition; and that he has personal knowledge that the said petitioner is a
good moral character, attached to the principles of the Constitution
of the United States, and that he is in every way qualified, in his
opinion, to be admitted as a citizen of the United States.

Subscribed and sworn to before me this ——— day of ———.  ———
[ L. S.]
(Official character of attesting).

Certificate of Naturalization.

Number ———.
Petition, volume ———, page ———.
Stub, volume ———, page ———.
(Signature of holder) ———.

Description of holder: Age, ———; height, ———; color, ———;
complexion, ———; color of eyes, ———; color of hair, ———; visi-
able distinguishing marks, ———.  Name, age, and place of residence
of wife, ———, ———, ———.  Names, ages, and places of residence
of minor children, ———, ———, ———; ———, ———, ———;
———, ———, ———.

————, ss:

Be it remembered, that at a ——— term of the ——— court of
——, held at ——— on the ——— day of ———, in the year of our
Lord nineteen hundred and ———, ———, who previous to his (her)
naturalization was a citizen or subject of ———, at present residing at
number ——— street, ——— city (town), ——— State (Terri-
tory or District), having applied to be admitted a citizen of the United
States of America pursuant to law, and the court having found that the
petitioner had resided continuously within the United States for at least
five years and in this State for one year immediately preceding the
date of the hearing of his (her) petition, and that said petitioner intends
to reside permanently in the United States, had in all respects complied
with the law in relation thereto, and that ——— he was entitled to be so
admitted, it was thereupon ordered by the said court that ——— he be
admitted as a citizen of the United States of America.

In testimony whereof the seal of said court is hereunto affixed on the
—— day of ———, in the year of our Lord nineteen hundred
and ———, and of our independence the ———.
[ L. S.]
(Official character of attesting).

(1790)
Stub of Certificate of Naturalization.
No. of certificate, ———.
Name ————; age, ———.
Declaration of intention, volume ———, page ———.
Petition, volume ———, page ———.
Name, age, and place of residence of wife, ———, ———, ———.
Names, ages, and places of residence of minor children, ———, ———, ———, ———, ———, ———.

Date of order, volume ———, page ———.
(Signature of holder) ——————.

(34 Stat. 603.)
See notes to section 3 of this act, ante, § 4351.
The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer from the Department of Commerce and Labor to the Department of Labor of the Bureau of Immigration and Naturalisation, and by the transfer to and conferring upon the head of the Department of Labor all duties and powers performed, possessed or exercised, in and over any bureau transferred to the Department of Labor, by the head of any department from which it was transferred, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 3, 8, ante, § 940.

§ 4383. (Act June 29, 1906, c. 3592, § 28.) Regulations for execution of provisions of act; certified copies of papers, etc., and records required under act, as evidence.
The Secretary of [Commerce and] Labor shall have power to make such rules and regulations as may be necessary for properly carrying into execution the various provisions of this Act. Certified copies of all papers, documents, certificates, and records required to be used, filed, recorded, or kept under any and all of the provisions of this Act shall be admitted in evidence equally with the originals in any and all proceedings under this Act and in all cases in which the originals thereof might be admissible as evidence. (34 Stat. 606.)

See notes to section 3 of this act, ante, § 4351.
The words "Commerce and," inclosed in brackets in this section, were superseded by the transfer from the Department of Commerce and Labor to the Department of Labor of the Bureau of Immigration and Naturalisation, and by the vesting in the head of the Department of Labor of all duties and powers performed or exercised, in and over any bureau so transferred, by the head of the department from which it was transferred, by the act creating the Department of Labor, Act March 4, 1913, c. 141, §§ 3, 8, ante, §§ 934, 940.

§ 4384. (Act June 29, 1906, c. 3624, § 1.) Naturalization certificates failing to show compliance with requirements of Act March 3, 1903, c. 1012, § 39, to be valid upon compliance therewith.
Naturalization certificates issued after the Act approved March third, nineteen hundred and three, entitled "An Act to regulate the immigration of aliens into the United States," went into effect, which fail to show that the courts issuing said certificates
This was the first section of an act entitled "An act to validate certain certificates of naturalization."

Act March 3, 1803, c. 1012, § 39, mentioned in this section, was not to be enforced, by a provision contained therein, until 90 days after the approval of the act. It was repealed by Act June 29, 1806, c. 3022, § 26, ante, § 4354. It was as follows:

"Sec. 39. That no person who disbelieves in or who is opposed to all organized government, or who is a member of or affiliated with any organization entertaining and teaching such disbelief or opposition to all organized government, or who advocates or teaches the duty, necessity, or propriety of the unlawful assaulting or killing of any officer or officers, either of specific individuals or of officers generally, of the Government of the United States or of any other organized government, because of his or their official character, or who has violated any of the provisions of this Act, shall be naturalized or be made a citizen of the United States. All courts and tribunals and all judges and officers thereof having jurisdiction of naturalization proceedings or duties to perform in regard thereto shall, on the final application for naturalization, make careful inquiry into such matters, and before issuing the final order or certificate of naturalization cause to be entered of record the affidavit of the applicant and of his witnesses so far as applicable, reciting and affirming the truth of every material fact requisite for naturalization. All final orders and certificates of naturalization hereafter made shall show on their face specifically that said affidavits were duly made and recorded, and all orders and certificates that fail to show such facts shall be null and void.

"That any person who purposely procures naturalization in violation of the provisions of this section shall be fined not more than five thousand dollars, or shall be imprisoned not less than one nor more than ten years, or both, and the court in which such conviction is had shall thereupon adjudge and declare the order or decree and all certificates admitting such person to citizenship null and void. Jurisdiction is hereby conferred on the courts having jurisdiction of the trial of such offense to make such adjudication.

"That any person who knowingly aids, advises, or encourages any such person to apply for or to secure naturalization or to file the preliminary papers declaring an intent to become a citizen of the United States, or who in any naturalization proceeding knowingly procures or gives false testimony as to any material fact, or who knowingly makes an affidavit false as to any material fact required to be proved in such proceeding, shall be fined not more than five thousand dollars or imprisoned not less than one nor more than ten years, or both.

"The foregoing provisions concerning naturalization shall not be enforced until ninety days after the approval hereof."

Section 2 of this act was as follows:

"That all the records relating to naturalization, all declarations of intention to become citizens of the United States, and all certificates of naturalization filed, recorded or issued prior to the time when this act takes effect in or from the criminal court of Cook County, Illinois, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court
with jurisdiction to naturalize aliens, but shall not be by this Act further validated or legalized." It is omitted as local and temporary.

Section 9 of the sundry civil appropriation act for the fiscal year 1913, Act Aug. 24, 1912, c. 355, § 9, 37 Stat. 487, was as follows:

"All of the records relating to naturalization or declarations of intention to become citizens of the United States and all certificates of naturalization filed, recorded, or issued prior to an Act to validate certain certificates of naturalization, approved June twenty-ninth, nineteen hundred and six, in or from the Louisville city court, sometimes called the Louisville police court, Kentucky, shall for all purposes be deemed to be and to have been made, filed, recorded, or issued by a court with jurisdiction to naturalize aliens, but shall not be by this act further validated or legalized."

It is omitted as temporary merely.

Comp. St. '13—113

(1793)
TITLE XXXI
THE CENSUS

This title of the Revised Statutes included sections 2175-2206 thereof, in which were incorporated provisions of acts for taking previous censuses, principally Act May 23, 1850, c. 11, 9 Stat. 428. It was made applicable to any subsequent census, unless otherwise provided, by the first section of the Title, as follows:

"Sec. 2175. If no other law be passed providing for the taking of any subsequent census of the United States, on or before the first day of January of any year, when, by the Constitution of the United States, any future enumeration of the inhabitants thereof is required to be taken, such census shall, in all things, be taken and completed according to the provisions of this Title."

The entire title was superseded by Act March 3, 1879, c. 195, 20 Stat. 473, entitled "An act to provide for taking the Tenth and subsequent censuses," which made similar provisions for the Tenth Census, and the last section of which (section 24, 20 Stat. 481) repealed all laws and parts of laws inconsistent with the provisions of the act, and provided that "all censuses subsequent to the Tenth Census shall be taken in accordance with the provisions of this act, unless Congress shall hereafter otherwise provide." But that act was in like manner superseded by Act March 1, 1889, c. 319, entitled "An act to provide for taking the Eleventh and subsequent censuses." 25 Stat. 760, the last section of which (section 25, 25 Stat. 767) expressly repealed Act March 3, 1879, c. 195, and all laws and parts of laws inconsistent with its own provisions, and provided that "all censuses subsequent to the Eleventh census shall be taken in accordance with the provisions of this act, unless Congress shall hereafter otherwise provide." That act was in turn superseded by Act March 8, 1899, c. 419, 30 Stat. 1014, entitled "An act to provide for taking the Twelfth and subsequent censuses," the last section of which (section 28, 30 Stat. 1021) expressly repealed Act March 1, 1889, c. 319, and all laws and parts of laws inconsistent with its own provisions; but this latest act, unlike the previous acts mentioned, contained no provision relating to subsequent censuses, and, by a proviso to section 2 thereof, "nothing herein contained shall be construed to establish a Census Bureau permanent beyond the Twelfth Census" (30 Stat. 1014), and said act was repealed by Act July 2, 1902, c. 2, § 33, post. § 4419. A permanent Census Office was established by Act March 6, 1902, c. 139, 32 Stat. 51, and provisions for taking the Thirteenth and subsequent decennial censuses were made by Act July 2, 1902, c. 2, 36 Stat. 1.

This Title includes the provisions of said Act March 6, 1902, c. 139, and Act July 2, 1902, c. 2, relating to the taking of the census and matters incidental thereto, and subsequent provisions amendatory thereof or additional thereto. Other provisions of said acts and other acts relating to the Census Office are set forth ante, under Title XII A, "The Department of Commerce," c. G.
Sec. 4389. Collection of special statistics decennially; special agents to secure statistics.

Sec. 4390. Collection of vital statistics annually.

Sec. 4391. Collection of statistics of manufactures under factory system in year 1906 and every ten years thereafter; collection of statistics of cotton production annually; additional special collections of statistics as required by Congress.

Sec. 4392. Cooperation with state officials in collection of statistics of manufactures.

Sec. 4393. Appointment of supervisors of census.

Sec. 4394. Duties of supervisors.

Sec. 4395. Compensation of supervisors.

Sec. 4396. Duties of enumerators.

Sec. 4397. Enumeration districts; assignments of enumerators to two or more districts, and to institutions.

Sec. 4398. Removal of enumerators; filling vacancies; incomplete or erroneous enumeration.

Sec. 4399. Interpreters to assist enumerators; employment; compensation.

Sec. 4400. Compensation of enumerators.

Sec. 4401. Death of supervisor or enumerator; compensation for services rendered.

Sec. 4402. Special agents; appointment; authority; compensation.

Sec. 4403. Amendment of Act March 3, 1890, c. 419, § 17; special agents; authority; compensation; employment of clerical force for field work; employees of Census Office to be citizens.

Sec. 4404. Compensation of special agents.

Sec. 4405. Oath of supervisors, enumerators, special agents, etc., and other employees; appointment or employment where examination required to be solely with reference to fitness.

Sec. 4406. Date as to which enumeration to be taken; time of commencement and completion thereof.

Sec. 4407. Receiving compensation for appointment or employment of supervisor, enumerator, clerk, or other employee, etc., punishable; penalty.

Sec. 4408. Neglect or refusal to perform duties by officers or employees, publishing or communicating information, false swearing, making false certificate or fictitious return, furnishing false statement or false information, punishable; penalties.

Sec. 4409. Persons required to answer questions; refusal punishable; penalty.

Sec. 4410. Duty of owner or officer, etc., of manufacturing establishment, etc., to answer questions; refusal punishable.

Sec. 4411. Information furnished under preceding section to be used only for statistical purposes.

Sec. 4412. Enforcement of fines and penalties imposed by act.

Sec. 4413. Expenditures to be authorized by Director of Census.

Sec. 4414. Census printing office abolished; bulletins and reports to be printed, etc., by Public Printer.

Sec. 4415. Printing of blanks, schedules, etc., and other miscellaneous printing, and printing of bulletins and reports and publishing and distributing thereof, by Public Printer.

Sec. 4416. Information from other Departments or offices.

Sec. 4417. Census of agriculture and live stock in year 1915 and every 10 years thereafter.

Sec. 4418. Certified copies from population or agricultural returns to be furnished to Governor of state or territory or to court of record; data for genealogical, etc., purposes to be furnished to individuals.

Sec. 4419. Repeal.

Sec. 4420. Publication of names of heads of families returned in First Census; sale of publications; report.

Sec. 4421. Collection of tobacco statistics; semi-annual reports of quantities in hands of dealers and manufacturers; manufacturers exempt.

Sec. 4422. Types of tobacco to be specified; Director of Census to prepare blanks.

Sec. 4423. Reports required; penalty for failure to report; demand for report; notice of demand; corporation officers subject to penalties.

(1795)
§ 4385. (Act July 2, 1909, c. 2, § 1.) Census to be taken in the year 1910 and every 10 years thereafter.

A census of the population, agriculture, manufactures, and mines and quarries of the United States shall be taken by the Director of the Census in the year nineteen hundred and ten and every ten years thereafter. The census herein provided for shall include each State and Territory on the mainland of the United States, the District of Columbia, and Alaska, Hawaii, and Porto Rico. (36 Stat. 1.)

This was the first section of an act entitled "An act to provide for the Thirteenth and subsequent censuses."
Sections 2, 8-28, 30-33 of the act are set forth post, §§ 4386, 4387, 4393-4402, 4405-4413, 4415-4419.
Sections 3-7 of the act, providing for the appointment, qualifications, and compensation of additional officers, clerks and employees in the Census Office during the decennial census period, are set forth ante, §§ 915-919.
Section 29 of the act, providing for the free transmission of official mail matter relating to the census and addressed to the Census Office, and for its free registry, if necessary, is set forth post, § 7370.

§ 4386. (Act July 2, 1909, c. 2, § 2.) Decennial census period.

The period of three years beginning the first day of July next preceding the census provided for in section one of this Act shall be known as the decennial census period, and the reports upon the inquiries provided for in said section shall be completed and published within such period. (36 Stat. 2.)

See notes to section 1 of this act, ante, § 4385.

§ 4387. (Act July 2, 1909, c. 2, § 8, as amended, Act Feb. 25, 1910, c. 63.) Scope of Thirteenth Census; schedules, and contents thereof; collection of statistics by special agents or detailed employees; form and subdivision of inquiries.

The Thirteenth Census shall be restricted to inquiries relating to population, to agriculture, to manufactures, and to mines and quarries. The schedules relating to population shall include for
each inhabitant the name, relationship to head of family, color, sex, age, conjugal condition, place of birth, place of birth of parents, number of years in the United States, citizenship, occupation, whether or not employer or employee, and, if employee, whether or not employed at the date of enumeration and the number of months unemployed during the preceding calendar year, whether or not engaged in agriculture, school attendance, literacy, and tenure of home and whether or not a survivor of the Union or Confederate Army or Navy; and the name and address of each blind or deaf and dumb person; and for the enumeration of institutions, shall include paupers, prisoners, juvenile delinquents, insane, feeble-minded, blind, deaf and dumb, and inmates of benevolent institutions.

The schedules relating to agriculture shall include name, color and country of birth of occupant of each farm, tenure, acreage of farm, acreage of land under irrigation, acreage of woodland and character of timber thereon, value of farm and improvements, value of farm implements, number and value of live stock on farms and ranges, number and value of domestic animals not on farms and ranges, and the acreage of crops planted and to be planted during the year of enumeration, and the acreage of crops and the quantity and value of crops and other farm products for the year ending December thirty-first next preceding the enumeration.

The schedules of inquiries relating to manufactures and to mines and quarries shall include the name and location of each establishment; character of organization, whether individual, cooperative, or other form; character of business or kind of goods manufactured; amount of capital actually invested; number of proprietors, firm members, co-partners, stockholders, and officers and the amount of their salaries; number of employees and the amount of their wages; quantity and cost of materials used in manufactures; amount of miscellaneous expenses; quantity and value of products; time in operation during the census year; character and quantity of power used, and character and number of machines employed. Inquiries shall also be made as to the location and character of irrigation enterprises; quantity of land irrigated in the arid region of the United States and in each State and county in that section under state and federal laws; the price at which these lands, including water right, are obtainable; the character and value of crops produced on irrigated lands, the amount of water used per acre for said irrigation and whether it was obtainable from national, state, or private works; the location of the various projects and method of construction with facts as to their physical condition; the amount of capital invested in such irrigation works.

The census of manufactures and of mines and quarries shall relate to the year ending December thirty-first next preceding the enumeration of population and shall be confined to mines and quarries and manufacturing establishments which were in active operation during all or a portion of that year. The census of manufactures shall furthermore be confined to manufacturing establishments conducted under what is known as the factory system, exclusive of the so-called neighborhood household and hand industries: Provided, That the
census shall also include an enumeration of the number of cattle, calves, sheep, lambs, hogs, goats, and kids slaughtered for food purposes, and all hides produced, whether taken from animals slaughtered for food purposes or otherwise, during the year next preceding the year of the enumeration of population, irrespective of the character of the establishment in which slaughtered or produced.

The inquiry concerning manufactures shall cover the production of turpentine and rosin, and the report concerning this industry shall show, in addition to the other facts covered by the regular schedule of manufactures, the quantity and quality of turpentine and rosin manufactured and marketed, the sources, methods, and extent of the industry.

Whenever he shall deem it expedient, the Director of the Census may charge the collection of these statistics upon special agents or upon detailed employees, to be employed without respect to locality.

The form and subdivision of inquiries necessary to secure the information under the foregoing topics shall be determined by the Director of the Census. (36 Stat. 3. 36 Stat. 227.)

See notes to section 1 of this act, ante, § 4385.

The amendment of this section by Act Feb. 25, 1910, c. 63, cited above, consisted chiefly in additions to the matters to be included in the schedules relating to agriculture and to manufactures and mines.

The schedules relating to population were to provide inquiries respecting the nationality or mother tongue of persons born in foreign countries and of parents of foreign births of persons enumerated, by Res. March 24, 1910, No. 17, post, § 4388.

§ 4388. (Res. March 24, 1910, No. 17.) Scope of Thirteenth Census; schedules relating to population; nationality or mother tongue of persons of foreign birth.

The schedules relating to population for the Thirteenth Decennial Census, in addition to the inquiries required by the Act entitled “An Act to amend section eight of an Act to provide for the Thirteenth and subsequent decennial censuses, approved July second, nineteen hundred and nine,” approved February twenty-fifth, nineteen hundred and ten, shall provide inquiries respecting the nationality or mother tongue of all persons born in foreign countries, and of the nationality or mother tongue of parents of foreign birth of persons enumerated. (36 Stat. 877.)

Act July 2, 1909, c. 2, § 8, mentioned in this resolution, as amended by Act Feb. 25, 1910, c. 63, also mentioned in this resolution, is set forth ante, § 4387.

§ 4389. (Act March 6, 1902, c. 139, § 7, as amended, Act June 7, 1906, c. 3048.) Collection of special statistics decennially; special agents to secure statistics.

After the completion and return of the enumeration and of the work upon the schedules relating to the products of agriculture and to manufacturing and mechanical establishments provided for in section seven of the Act of March third, eighteen hundred and ninety-nine, entitled “An Act to provide for taking the Twelfth and subsequent censuses,” the Director of the Census is hereby authorized decennially to collect statistics relating to the defective, dependent,
and delinquent classes; to crime, including judicial statistics pertaining thereto, provided that such statistics shall include information upon the following questions, namely: Age, sex, color, race, nativity, parentage, literacy by race, color, nativity, and parentage, and such other questions relating to these subjects as the Director in his discretion may deem proper; to social statistics of cities; to public indebtedness, valuation, taxation, and expenditures; to religious bodies; to transportation by water, and express business; to mines, mining, quarries, and minerals, and the production and value thereof, including gold in divisions of placer and vein, and silver mines, and the number of men employed, the average daily wage, average working time, and aggregate earnings in the various branches and aforesaid divisions of the mining and quarrying industries; to savings banks and other savings institutions, mortgage, loan, and investment companies, and similar institutions; to the fishing industry in cooperation with the Bureau of Fisheries; and every five years to collect statistics relating to street railways, electric light and power, telephone, and telegraph business. And the Director of the Census shall prepare schedules containing such interrogatories as shall in his judgment be best adapted to elicit the information required under the subjects, with such specifications, divisions, and particulars under each head as he shall deem necessary to that end; and all reports prepared under the provisions of this section shall be designated as “Special Reports of the Census Office.” For the purpose of securing the statistics required by this section the Director of the Census may appoint special agents when necessary, and such special agents shall receive compensation as hereinafter provided. (32 Stat. 52; 34 Stat. 218.)

This was part of section 7 of an act entitled “An act to provide for a permanent Census Office,” cited above, as amended by Act June 7, 1906, c. 3048, also cited above.

A further provision of this section, as so amended, that the Director of the Census shall edit, index, and publish the Official Register, is set forth ante, § 912.

This section, as originally enacted in March 6, 1902, c. 139, cited above, amended Act March 3, 1899, c. 419, § 8, 30 Stat. 1016. It read as follows:

“Sec. 7. That section eight of the Act of March third, eighteen hundred and ninety-nine, is hereby amended so as to read as follows: That after the completion and return of the enumeration and of the work upon the schedules relating to the products of agriculture and to manufacturing and mechanical establishments provided for in section seven of this Act, the Director of the Census is hereby authorized decennially to collect statistics relating to special classes, including the insane, feeble-minded, deaf, dumb, and blind; to crime, pauperism, and benevolence, including prisoners, paupers, juvenile delinquents, and inmates of benevolent and reformatory institutions; to social statistics of cities; to public indebtedness, valuation, taxation, and expenditures; to religious bodies; to electric light and power, telephone, and telegraph business; to transportation by water, express business, and street railways; to mines, mining, quarries and minerals and the production and value thereof, including gold in divisions of placer and vein, and silver mines, and the number of men employed, the average daily wage, average working time, and aggregate earnings in the various branches and aforesaid divisions of the mining and quarrying industries until July first, nineteen hundred and four. And the Director of the Census shall prepare schedules containing such interrogatories as shall in his judgment be best adapted to elicit the information required under these subjects, with such specifications, divisions, and particulars under each head

(1799)
as he shall deem necessary to that end, and all reports prepared under the provisions of this section shall be designated as 'Special reports of the Census Office.' For the purpose of securing the statistics required by this section, the Director of the Census may appoint special agents when necessary, and such special agents shall receive compensation as hereinafter provided: Provided, That the statistics of special classes, and of crime, pauperism, and benevolence specified in this section, shall be restricted to institutions containing such classes and the Director of the Census is authorized and directed to collect statistics relating to all of the deaf, dumb, and blind, notwithstanding the restrictions and limitations contained in section eight of said Act entitled 'An Act to provide for taking the Twelfth and subsequent censuses': Provided, That in taking the census of said classes the inquiries shall be confined to the following four questions, namely: Name, age, sex, and post-office address.

The first five sections of this act, which made permanent the Census Office temporarily established for taking the Twelfth Census, and provided for the appointment and compensation of the Director of the Census and the other officers, clerks, and employees of the Census Office, are set forth, ante, §§ 909-911, 913, 914.

Section 6 of this act provided that the provisions of Act March 3, 1890, c. 419, 30 Stat. 1014, relating to the Twelfth Census, not inconsistent with the provisions of this act, should remain in force for the taking of the Thirteenth and subsequent censuses. It was superseded by the repeal of said Act March 3, 1890, c. 419, by Act July 2, 1900, c. 2, § 33, post, § 4419.

Sections 8-11 of this act are set forth in this chapter, post, §§ 4390, 4391, 4403-4414.

Section 12 of this act, 32 Stat. 53, repealed several supplemental acts amendatory of Act March 3, 1890, c. 419, 30 Stat. 1014, and all provisions of said act inconsistent with this act.

The clerical force of the Census Office may be employed for such field work as may be required to carry out the provisions of this section, in lieu of employing special agents for the purpose, by a proviso annexed to section 17 of Act March 3, 1890, c. 419, as amended by section 10 of this act, post, § 4403.

Act March 3, 1890, c. 419, mentioned in this section, section 8 of which was amended by this section as originally enacted, was repealed by Act July 2, 1900, c. 2, § 33, post, § 4419.

The Thirteenth Census was restricted to inquiries relating to population, agriculture, manufactures, and mines and quarries, prescribed by Act July 2, 1900, c. 2, § 8, ante, § 4387.

Subsequent provisions relating to special agents to carry out the provisions of this act and the act to provide for the Thirteenth and subsequent censuses were made by section 18 of the latter act, Act July 2, 1900, c. 2, § 19, post, § 4402.

§ 4390. (Act March 6, 1902, c. 139, § 8, as amended, Act April 27, 1904, c. 1626.) Collection of vital statistics annually.

There shall be a collection of the statistics of the births and deaths in registration areas for the year nineteen hundred and two, and annually thereafter, the date for which shall be obtained only from and restricted to such registration records of such States and municipalities as in the discretion of the Director possess records affording satisfactory data in necessary detail, the compensation for the transcription of which shall not exceed four cents for each birth or death reported; or a minimum compensation of twenty-five dollars may be allowed, in the discretion of the Director, in States or cities registering less than five hundred deaths or five hundred births during the preceding year. (32 Stat. 52. 33 Stat. 362.)

See note to section 7 of this act, ante, § 4389.

In this section, as originally enacted, the concluding clause relating to the compensation for transcription of registration records was, "the compensation
for the transcription of which shall not exceed two cents for each birth or death reported." It was amended by Act April 27, 1904, cited above, to read as set forth here. In the section as so amended, the word "date" in the third line thereof was substituted, apparently by error, for the word "data" in the section originally enacted.

Provisions for collection of statistics of deaths and births in registration areas were made by Act March 3, 1899, c. 419, § 7, and by § 8, before the amendment of the latter section by section 7 of this act.

Co-operation of state authorities in securing a uniform system of registration of births and deaths was requested by Res. Feb. 11, 1903, No. 7, 32 Stat. 1231, which was as follows:

"Whereas the registration of deaths at the time of their occurrence furnishes official record information of much value to individuals; and

"Whereas the registration of births and deaths, with information upon certain points, is essential to the progress of medical and sanitary science in preventing and restricting disease and in devising and applying remedial agencies; and

"Whereas all of the principal countries of the civilized world recognize the necessity for such registration and enforce the same by general laws; and

"Whereas registration in the United States is now confined to a few States, as a whole, and the larger cities, under local laws and ordinances which differ widely in their requirements; and

"Whereas it is most important that registration should be conducted under laws that will insure a practical uniformity in the character and amount of information available from the records; and

"Whereas the American Public Health Association and the United States Census Office are now co-operating in an effort to extend the benefits of registration and to promote its efficiency by indicating the essential requirements of legislative enactments designed to secure the proper registration of all deaths and births and the collection of accurate vital statistics, to be presented to the attention of the legislative authorities in nonregistration States, with the suggestion that such legislation be adopted; Now, therefore,

"Resolved, &c., That the Senate and House of Representatives of the United States hereby expresses approval of this movement and requests the favorable consideration and action of the State authorities, to the end that the United States may attain a complete and uniform system of registration."

A collection of statistics of marriages and deaths in all the states, territories, and the District of Columbia, since 1887, was provided for by Res. Feb. 9, 1905, No. 16, 33 Stat. 1282, which was repealed by Act of July 22, 1912, c. 249, § 6, post, § 4434.

§ 4391. (Act March 6, 1902, c. 139, § 9.) Collection of statistics of manufactures under factory system in year 1905 and every ten years thereafter; collection of statistics of cotton production annually; additional special collections of statistics as required by Congress.

In the year nineteen hundred and five, and every ten years thereafter, there shall be a collection of the statistics of manufactures, confined to manufacturing establishments conducted under what is known as the factory system, exclusive of the so-called neighborhood and mechanical industries; and the Director is hereby authorized to prepare such schedules as in his judgment may be necessary to carry out the provisions of this section; and that in addition to the statistics now provided for by law the Director of the Census shall annually collect the statistics of the cotton production of the country as returned by the ginners and bulletins giving the results of the same shall be issued weekly beginning September first of each year and continued till February first following; and that the Di-


§ 4391  THE CENSUS  (Tit. 31

rector of the Census shall make, from time to time, any additional special collections of statistics relating to any branch of agriculture, manufacture, mining, transportation, fisheries, or any other branch of industry that may be required of him by Congress. (32 Stat. 52.)

See notes to section 7 of this act, ante, § 4389.

Co-operation with state officials in the collection of statistics of manufactures was authorized by Act March 1, 1904, c. 388, post, § 4392.


Provisions for the collection and publication of additional statistics as to the quantity of tobacco in the hands of manufacturers and dealers were made by Act April 30, 1912, c. 102, post, §§ 4421–4423.

§ 4392. (Act March 1, 1904, c. 388.) Co-operation with state officials in collection of statistics of manufactures.

The Director of the Census is hereby authorized and empowered to co-operate with the secretary of state of the State of Michigan in taking the census of manufactures and shall equitably share the expenses thereof, the results of which may be accepted by the United States as its census of manufactures for that State for the year nineteen hundred and five: Provided, That the expenditures incident to this co-operation shall not exceed twenty thousand dollars, such expenditures to be paid from the fund appropriated for the expenses of the field work of the census for the fiscal year ending June thirtieth, nineteen hundred and five. And the Director of the Census may, in his discretion, co-operate with the officials of other States which take a like census in so far as it may aid in the collection of statistics of manufactures required by existing law. (33 Stat. 58.)

This was an act entitled "An act to authorize the Director of the Census to co-operate with the Secretary of the State of the State of Michigan and with officials of other States in taking the census of manufactures."

Previous provisions for collection of statistics of manufactures were made by Act March 6, 1902, c. 139, § 9, ante, § 4391.


The Director of the Census shall, at least six months prior to the date fixed for commencing the enumeration at the Thirteenth and each succeeding decennial census, designate the number, whether one or more, of supervisors of census for each State and Territory, the District of Columbia, Alaska, and Porto Rico, and shall define the districts within which they are to act; except that the Director of the Census, in his discretion, need not designate supervisors for Alaska and the Territory of Hawaii, but in lieu thereof may employ special agents as hereinafter provided. The supervisors shall be appointed by the President, by and with the advice and consent of the Senate: Provided, That the whole number of supervisors shall not exceed three hundred and thirty: And provided further, That so far as practicable and desirable the boundaries of the supervisors' districts shall conform to the boundaries of the congressional districts: And provided further, That if in any supervisor's district the supervisor (1802)
has not been appointed and qualified ninety days preceding the date fixed for the commencement of the enumeration, or if any vacancy shall occur thereafter, either through death, removal, or resignation of the supervisor, or from any other cause, the Director of the Census may appoint a temporary supervisor or detail an employee of the Census Office to act as supervisor for that district. (36 Stat. 4.)

See note to section 1 of this act, ante, § 4385.

§ 4394. (Act July 2, 1909, c. 2, § 10.) Duties of supervisors.

Each supervisor of census shall be charged with the performance, within his own district, of the following duties: To consult with the Director of the Census in regard to the division of his district into subdivisions most convenient for the purpose of the enumeration, which subdivisions or enumeration districts shall be defined and the boundaries thereof fixed by the Director of the Census; to designate to the Director suitable persons, and, with his consent, to employ such persons as enumerators, one or more for each subdivision; to communicate to enumerators the necessary instructions and directions relating to their duties; to examine and scrutinize the returns of the enumerators, and in the event of discrepancies or deficiencies appearing in any of the said returns to use all diligence in causing the same to be corrected or supplied; to forward the completed returns of the enumerators to the Director at such time and in such manner as shall be prescribed, and to make up and forward to the Director the accounts of each enumerator in his district for service rendered, which accounts shall be duly certified to by the enumerator, and the same shall be certified as true and correct, if so found, by the supervisor, and said accounts so certified shall be accepted and paid by the Director. The duties imposed upon the supervisor by this Act shall be performed in any and all particulars in accordance with the orders and instructions of the Director of the Census. (36 Stat. 5.)

See notes to section 1 of this act, ante, § 4385.


Each supervisor of the census shall, upon the completion of his duties to the satisfaction of the Director of the Census, receive the sum of one thousand five hundred dollars and, in addition thereto, one dollar for each thousand or majority fraction of a thousand of population enumerated in his district, such sums to be in full compensation for all services rendered and expenses incurred by him: Provided, That of the above-named compensation a sum not to exceed six hundred dollars, in the discretion of the Director of the Census, may be paid to any supervisor prior to the completion of his duties in one or more payments, as the Director of the Census may determine: Provided further, That in emergencies arising in connection with the work of preparation for, or during the progress of, the enumeration in his district, or in connection with the reenumeration of any subdivision, a supervisor may, in the discretion of the Director of the Census, be allowed actual and necessary traveling expenses and an allowance in lieu of subsistence not exceeding four dollars per day during
§ 4395  THE CENSUS  (Tit. 31)

his necessary absence from his usual place of residence: And provi-
ded further, That an appropriate allowance to supervisors for clerk hire
may be made when deemed necessary by the Director of the Cen-
sus. (36 Stat. 5.)

See notes to section 1 of this act, ante, § 4385.


Each enumerator shall be charged with the collection in his
subdivision of the facts and statistics required by the population
and agricultural schedules and such other schedules as the Direc-
tor of the Census may determine shall be used by him in connection
with the census, as provided in section eight of this Act. It shall be
the duty of each enumerator to visit personally each dwelling house in
his subdivision, and each family therein, and each individual living
out of a family in any place of abode, and by inquiry made of the head
of each family, or of the member thereof deemed most competent and
trustworthy, or of such individual living out of a family, to obtain each
and every item of information and all particulars required by this Act
as of date April fifteenth of the year in which the enumeration shall
be made; and in case no person shall be found at the usual place of
abode of such family, or individual living out of a family, competent to
answer the inquiries made in compliance with the requirements of this
Act, then it shall be lawful for the enumerator to obtain the required
information as nearly as may be practicable from families or persons
living in the neighborhood of such place of abode. It shall be the
duty also of each enumerator to forward the original schedules, prop-
perly filled out and duly certified, to the supervisor of his district as his
returns under the provisions of this Act; and in the event of discrep-
ancies or deficiencies being discovered in these schedules he shall use
all diligence in correcting or supplying the same. In case an enumera-
tion district embraces all or any part of any incorporated borough, vil-
lage, town, or city, and also other territory not included within the lim-
its of such incorporated borough, village, town, or city, it shall be the
duty of the enumerator to clearly and plainly distinguish and separate,
upon the population schedules, the inhabitants of such borough, vil-
lage, town, or city from the inhabitants of the territory not included
therein. No enumerator shall be deemed qualified to enter upon his
duties until he has received from the supervisor of the district to which
he belongs a commission, signed by the supervisor, authorizing him
to perform the duties of an enumerator, and setting forth the bound-
aries of the subdivision within which such duties are to be performed.
(36 Stat. 5.)

See notes to section 1 of this act, ante, § 4385.

§ 4397. (Act July 2, 1909, c. 2, § 13.) Enumeration districts; as-
signments of enumerators to two or more districts, and to in-
stitutions.

The territory assigned to each supervisor shall be divided into
as many enumeration districts as may be necessary to carry out
the purposes of this Act, and, in the discretion of the Director of
the Census, two or more enumeration districts may be given to one
(1804)
The Census

§ 4400

enumerator, and the boundaries of all the enumeration districts shall be clearly described by civil divisions, rivers, roads, public surveys, or other easily distinguishable lines: Provided, That enumerators may be assigned for the special enumeration of institutions, when desirable, without reference to the number of inmates. (36 Stat. 6.)

See notes to section 1 of this act, ante, § 4386.

§ 4398. (Act July 2, 1909, c. 2, § 14.) Removal of enumerators; filling vacancies; incomplete or erroneous enumeration.

Any supervisor of census may, with the approval of the Director of the Census, remove any enumerator in his district and fill the vacancy thus caused or otherwise occurring. Whenever it shall appear that any portion of the census provided for in this Act has been negligently or improperly taken, and is by reason thereof incomplete or erroneous, the Director of the Census may cause such incomplete and unsatisfactory enumeration and census to be amended or made anew. (36 Stat. 6.)

See notes to section 1 of this act, ante, § 4386.

§ 4399. (Act July 2, 1909, c. 2, § 15.) Interpreters to assist enumerators; employment; compensation.

The Director of the Census may authorize and direct supervisors of census to employ interpreters to assist the enumerators of their respective districts in the enumeration of persons not speaking the English language, but no authorization shall be given for such employment in any district until due and proper effort has been made to secure an enumerator who can speak the language or languages for which the services of an interpreter would otherwise be required. The compensation of such interpreters shall be fixed by the Director of the Census in advance, and shall not exceed five dollars per day for each day actually and necessarily employed. (36 Stat. 6.)

See notes to section 1 of this act, ante, § 4385.


The compensation of enumerators shall be determined by the Director of the Census as follows: In subdivisions where he shall deem such remuneration sufficient, an allowance of not less than two nor more than four cents for each inhabitant; not less than twenty nor more than thirty cents for each farm reported; ten cents for each barn and inclosure containing live stock not on farms, and not less than twenty nor more than thirty cents for each establishment of productive industry reported. In other subdivisions the Director of the Census may fix a mixed rate of not less than one nor more than two dollars per day and, in addition, an allowance of not less than one nor more than three cents for each inhabitant enumerated, and not less than fifteen nor more than twenty cents for each farm and each establishment of productive industry reported. In other subdivisions per diem rates shall be fixed by the Director according to the difficulty of enumeration, having special reference to the regions to be canvassed and the sparsity of settlement or other considerations pertinent there-to. The compensation allowed to an enumerator in any such district (1805)
shall be not less than three nor more than six dollars per day of eight hours actual field work, and no payment shall be made for time in excess of eight hours for any one day. The subdivisions or enumeration districts to which the several rates of compensation shall apply shall be designated by the Director of the Census at least two weeks in advance of the enumeration. No claim for mileage or traveling expenses shall be allowed any enumerator in either class of subdivisions, except in extreme cases, and then only when authority has been previously granted by the Director of the Census; and the decision of the Director as to the amount due any enumerator shall be final. (36 Stat. 6.)

See notes to section 1 of this act, ante, § 4885.

§ 4401. (Act July 2, 1909, c. 2, § 17.) Death of supervisor or enumerator; compensation for services rendered.

In the event of the death of any supervisor or enumerator after his appointment and entrance on his duties, the Director of the Census is authorized to pay to his widow or his legal representative such sum as he may deem just and fair for the services rendered by such supervisor or enumerator. (36 Stat. 7.)

See notes to section 1 of this act, ante, § 4885.

§ 4402. (Act July 2, 1909, c. 2, § 18, as amended, Res. Feb. 15, 1910, No. 9.) Special agents; appointment; authority; compensation.

Special agents may be appointed by the Director of the Census to carry out the provisions of this Act and of the Act to provide for a permanent Census Office approved March sixth, nineteen hundred and two, and Acts amendatory thereof or supplementary thereto. The special agents thus appointed shall have like authority with the enumerators in respect to the subjects committed to them under this Act, and shall receive compensation at rates to be fixed by the Director of the Census: Provided, That the same shall in no case exceed six dollars per day and actual necessary traveling expenses, and an allowance in lieu of subsistence not exceeding three dollars per day during necessary absence from their usual place of residence: Provided further, That no pay or allowance in lieu of subsistence shall be allowed special agents when employed in the Census Office on other than the special work committed to them, and no appointments of special agents shall be made for clerical work: And provided further, That the Director of the Census shall have power, and is hereby authorized, to appoint special agents to assist the supervisors whenever he may deem it proper, in connection with the work of preparation for, or during the progress of, the enumeration or in connection with the reenumeration of any district or a part thereof; or he may, in his discretion, employ for this purpose any of the permanent or temporary employees of the Census Office: And provided further, That the Director of the Census may, in his discretion, fix the compensation of special agents on a piece-price basis which may include a minimum and maximum rate of per diem compensation to be fixed by him, the maximum rate in such cases not to exceed an average of six dollars per diem for the period of employment, and actual necessary traveling ex-

(1806)
penses and an allowance in lieu of subsistence not exceeding three dollars per diem during necessary absence from their usual place of residence. (36 Stat. 7, 36 Stat. 874.)

See notes to section 1 of this act, ante, § 4385.
The amendment of this section by Res. Feb. 15, 1910, No. 9, cited above, consisted, in the last proviso thereof, of the words beginning "which may include a minimum and maximum rate," etc., to the end of the section as set forth here.

Act March 6, 1902, c. 139, mentioned in this section, is set forth ante, §§ 900-911, and §§ 4388-4391. The provisions of section 10 of that act, amending Act March 3, 1899, c. 419, § 17, were to a great extent superseded by those of this section, and said Act March 3, 1899, c. 419, was wholly repealed by section 38 of this act, post, § 4419.
The compensation of not to exceed 20 of the special agents provided for in this section may be fixed at not to exceed $8 per day, by a provision of Act Aug. 5, 1909, c. 7, post, § 4404.

§ 4403. (Act March 6, 1902, c. 139, § 10.) Amendment of Act March 3, 1899, c. 419, § 17; special agents; authority; compensation; employment of clerical force for field work; employees of Census Office to be citizens.

Section seventeen of the act of March third, eighteen hundred and ninety-nine, is hereby amended so as to read as follows:

"Sec. 17. That the special agents appointed under the provisions of this Act have like authority with the enumerators in respect to the subjects committed to them under this Act and shall receive compensation at rates to be fixed by the Director of the Census: Provided, That the same shall in no case exceed six dollars per day and actual necessary traveling expenses and an allowance in lieu of subsistence not exceeding three dollars per day during their necessary absence from their usual place of residence: And provided further, That no pay or allowance in lieu of subsistence shall be allowed special agents when employed in the Census Office on other than the special work committed to them, and no appointments of special agents shall be made for clerical work: And provided further, That the Director of the Census is hereby authorized in his discretion to employ the clerical force of the Census Office for such field work as may be required to carry out the provisions of sections seven, eight, and nine, in lieu of employing special agents for that purpose; and such employees when so employed shall be allowed, in addition to their regular compensation, actual necessary traveling expenses and an allowance in lieu of subsistence not exceeding three dollars per day during their necessary absence from the Census Office. All employees of the Census Office shall be citizens of the United States." (32 Stat. 53.)

Act March 3, 1899, c. 419, section 17 of which was amended by this section was repealed by Act July 2, 1909, c. 2, § 33, post, § 4419. The provisions of said original section were re-enacted, and those of the amended section set forth here were to a great extent superseded, by those of section 18 of said Act July 2, 1909, c. 2, ante, § 4402.

§ 4404. (Act Aug. 5, 1909, c. 7.) Compensation of special agents.
The Director of the Census may fix the compensation of not to exceed twenty of the special agents provided for in section eighteen of "An Act to provide for the thirteenth and subsequent decennial cen-
suases," approved July second, nineteen hundred and nine, at an amount not to exceed eight dollars per day: Provided, That such special agents shall be persons of known and tried experience in statistical work. (36 Stat. 126.)

This was a provision of the urgent deficiency act for the fiscal year 1900, cited above. Act July 2, 1909, c. 2, § 18, mentioned in this provision, is set forth ante, § 4402.

§ 4405. (Act July 2, 1909, c. 2, § 19.) Oath of supervisors, enumerators, special agents, etc., and other employés; appointment or employment where examination required to be solely with reference to fitness.

Every supervisor, supervisor's clerk, enumerator, interpreter, special agent, or other employee shall take and subscribe to an oath or affirmation, to be prescribed by the Director of the Census. All appointees and employees provided for in this Act shall be appointed or employed, and examined, if examination is required by this Act, solely with reference to their fitness to perform the duties required of them by the provisions of this Act, and without reference to their political party affiliations. (36 Stat. 7.)

See notes to section 1 of this act, ante, § 4385.

§ 4406. (Act July 2, 1909, c. 2, § 20.) Date as to which enumeration to be taken; time of commencement and completion thereof.

The enumeration of the population required by section one of this Act shall be taken as of the fifteenth day of April; and it shall be the duty of each enumerator to commence the enumeration of his district on that day, unless the Director of the Census in his discretion shall defer the enumeration in said district by reason of climatic or other conditions which would materially interfere with the proper conduct of the work; but in any event it shall be the duty of each enumerator to prepare the returns hereinafter required to be made, except those relating to paupers, prisoners, juvenile delinquents, insane, feeble-minded, blind, deaf and dumb, and inmates of benevolent institutions, and to forward the same to the supervisor of his district, within thirty days from the commencement of the enumeration of his district: Provided, That in any city having five thousand inhabitants or more under the preceding census the enumeration of the population shall be commenced on the fifteenth day of April aforesaid and shall be completed within two weeks thereafter. (36 Stat. 7.)

See notes to section 1 of this act, ante, § 4385.

§ 4407. (Act July 2, 1909, c. 2, § 21.) Receiving compensation for appointment or employment of supervisor, enumerator, clerk, or other employé, etc., punishable; penalty.

If any person shall receive or secure to himself any fee, reward, or compensation as a consideration for the appointment or employment of any person as supervisor, enumerator or clerk or other employee, or shall in any way receive or secure to himself any part of the compensation paid to any supervisor, enumerator or clerk (1808)
or other employee, he shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not more than three thousand dollars and be imprisoned not more than five years. (36 Stat. 8.)

See notes to section 1 of this act, ante, § 4386.

§ 4408. (Act July 2, 1909, c. 2, § 22.) Neglect or refusal to perform duties by officers or employés, publishing or communicating information, false swearing, making false certificate or fictitious return, furnishing false statement or false information, punishable; penalties.

Any supervisor, supervisor's clerk, enumerator, interpreter, special agent, or other employee, who, having taken and subscribed the oath of office required by this Act, shall, without justifiable cause, neglect or refuse to perform the duties enjoined on him by this Act, shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars; or if he shall, without the authority of the Director of the Census, publish or communicate any information coming into his possession by reason of his employment under the provisions of this Act, or the Act to provide for a permanent Census Office, or Acts amendatory thereof or supplemental thereto, he shall be guilty of a misdemeanor and shall upon conviction thereof be fined not to exceed one thousand dollars, or be imprisoned not to exceed two years, or both so fined and imprisoned, in the discretion of the court; or if he shall willfully and knowingly swear to or affirm falsely, he shall be deemed guilty of perjury, and upon conviction thereof shall be imprisoned not exceeding five years and be fined not exceeding two thousand dollars; or if he shall willfully and knowingly make a false certificate or a fictitious return, he shall be guilty of a misdemeanor, and upon conviction of either of the last-named offenses he shall be fined not exceeding two thousand dollars and be imprisoned not exceeding five years; or if any person who is or has been an enumerator shall knowingly or willfully furnish, or cause to be furnished, directly or indirectly, to the Director of the Census, or to any supervisor of the census, any false statement or false information with reference to any inquiry for which he was authorized and required to collect information, he shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding two thousand dollars and be imprisoned not exceeding five years. (36 Stat. 8.)

See notes to section 1 of this act, ante, § 4385.

The publication or communication by an employé of the Bureau of Census of any information received by him by reason of his employment, under the provisions of Act July 22, 1912, c. 249, post, §§ 4429–4434, was made punishable by section 3 of that act, post, § 4431.

§ 4409. (Act July 2, 1909, c. 2, § 23.) Persons required to answer questions; refusal punishable; penalty.

It shall be the duty of all persons over twenty-one years of age when requested by the Director of the Census, or by any supervisor, enumerator, or special agent, or other employee of the Census Office, acting under the instructions of the said Director, to answer correctly, to the best of their knowledge, all questions on the cen-
sus schedules applying to themselves and to the family to which they belong or are related, and to the farm or farms of which they or their families are the occupants; and any person over twenty-one years of age who, under the conditions hereinbefore stated, shall refuse or willfully neglect to answer any of these questions, or shall willfully give answers that are false, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding one hundred dollars.

And it shall be the duty of every owner, proprietor, manager, superintendent, or agent of a hotel, apartment house, boarding or lodging house, tenement, or other building, when requested by the Director of the Census, or by any supervisor, enumerator, special agent, or other employee of the Census Office, acting under the instructions of the said Director, to furnish the names of the occupants of said hotel, apartment house, boarding or lodging house, tenement, or other building, and to give thereto free ingress and egress to any duly accredited representative of the Census Office, so as to permit of the collection of statistics for census purposes including the proper and correct enumeration of all persons having their usual place of abode in said hotel, apartment house, boarding or lodging house, tenement, or other building; and any owner, proprietor, manager, superintendent, or agent of a hotel, apartment house, boarding or lodging house, tenement, or other building who shall refuse or willfully neglect to give such information or assistance under the conditions hereinbefore stated shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding five hundred dollars. (36 Stat. 8.)

See notes to section 1 of this act, ante, § 4385.

§ 4410. (Act July 2, 1909, c. 2, § 24.) Duty of owner or officer, etc., of manufacturing establishment, etc., to answer questions; refusal punishable.

It shall be the duty of every owner, president, treasurer, secretary, director, or other officer or agent of any manufacturing establishment, mine, quarry, or other establishment of productive industry, whether conducted as a corporation, firm, limited liability company, or by private individuals, when requested by the Director of the Census or by any supervisor, enumerator, special agent, or other employee of the Census Office acting under the instructions of the said Director, to answer completely and correctly to the best of his knowledge all questions on any census schedule applying to such establishment; and any owner, president, secretary, director, or other officer or agent of any manufacturing establishment, mine, quarry, or other establishment of productive industry, who under the conditions hereinbefore stated shall refuse or willfully neglect to answer any of these questions, or shall willfully give answers that are false, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not exceeding ten thousand dollars, or imprisoned for a period not exceeding one year, or both so fined and imprisoned, at the discretion of the court. The provisions of this section shall also apply to the collection of the information required and authorized by the Act entitled "An
Act to provide for a permanent Census Office,” and by Acts amender-
tory thereof or supplemental thereto. (36 Stat. 9.)

See notes to section 1 of this act, ante, § 4385.

The act to provide for a permanent Census Office, Act March 6, 1902, c. 139, and the acts amendatory thereof or supplemental thereto, mentioned in this section, are set forth ante, §§ 909-920, and §§ 4389-4391.

Tobacco manufacturers and dealers were required to make reports as to the quantity of tobacco on hand twice each year, and a penalty was imposed for their failure to do so, by Act April 30, 1912, c. 102, § 8, post, § 4428, and the making of a false report was made punishable by section 4 of the same act, post, § 4424.

The owners of cotton ginneries, factories, etc., were required to furnish information as to the quantity of cotton ginned, consumed, or on hand, and a penalty was imposed for refusal or willful neglect to give such information, or for giving false answers, by Act July 22, 1912, c. 249, § 4, post, § 4432.

§ 4411. (Act July 2, 1909, c. 2, § 25.) Information furnished under preceding section to be used only for statistical purposes.

The information furnished under the provisions of the next preceding section shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Census Office whereby the data furnished by any particular establishment can be identified, nor shall the Director of the Census permit anyone other than the sworn employees of the Census Office to examine the individual reports. (36 Stat. 9.)

See notes to section 1 of this act, ante, § 4385.

Similar provisions as to the information concerning tobacco in the hands of dealers and manufacturers were contained in Act April 30, 1912, c. 102, § 6, post, § 4426.

It was provided that the information as to the production, consumption, and stocks of cotton should be confidential and for statistical purposes only by Act July 22, 1912, c. 249, § 8, post, § 4431.


All fines and penalties imposed by this Act may be enforced by indictment or information in any court of competent jurisdiction. (36 Stat. 9.)

See notes to section 1 of this act, ante, § 4385.

§ 4413. (Act July 2, 1909, c. 2, § 27.) Expenditures to be author-
ized by Director of Census.

The Director of the Census may authorize the expenditure of necessary sums for the actual and necessary traveling expenses of the officers and employees of the Census Office, including an allowance in lieu of subsistence not exceeding four dollars per day during their necessary absence from the Census Office, or, instead of such an allowance, their actual subsistence expenses, not exceeding five dollars per day; and he may authorize the incidental, miscellaneous, and contingent expenses necessary for the carrying out of this Act, as herein provided, and not otherwise, including advertising in newspapers, the purchase of manuscripts, books of reference and periodicals, the rental of sufficient quarters in the District of Columbia or elsewhere and the furnishing thereof, and expenditures necessary for the compiling, (1811)
§ 4413. THE CENSUS

printing, publishing, and distributing the results of the census, and purchase of necessary paper and other supplies, the purchase, rental, construction, and repair of mechanical appliances, the compensation of such permanent and temporary clerks as may be employed under the provisions of this Act and the Act establishing the permanent Census Office and Acts amendatory thereof or supplemental thereto, and all other expenses incurred under authority conveyed in this Act. (36 Stat. 9.)

See notes to section 1 of this act, ante, § 4385, and also note to section 24 of this act, ante, § 4410.

§ 4414. (Act March 6, 1902, c. 139, § 11.) Census printing office abolished; bulletins and reports to be printed, etc., by Public Printer.

The printing office established in the Census Office is hereby abolished to take effect July first, nineteen hundred and two, and the outfit and equipment therein shall be turned over to the Public Printer; and the Director of the Census is hereby authorized and directed to have printed, published, and distributed, from time to time, bulletins and reports of the preliminary and other results of the various investigations authorized by law; and all of said printing and binding shall be done by the Public Printer at the Government Printing Office. (32 Stat. 53.)

See notes to section 7 of this act, ante, § 4389.

The Director of the Census was authorized to print and bind in the Census Office blanks, circulars, etc., and to print, publish, and distribute bulletins and reports, and the printing office outfit used in the Eleventh Census was transferred to the Census Office, by provisions of Act March 3, 1889, c. 419, §§ 25, 29, 30 Stat. 1020, 1021, and the appointment and employment of a Superintendent of Printing and of skilled mechanics and other persons in the census printing office were authorized by Act May 10, 1900, c. 389, § 1, 31 Stat. 174, which was repealed by the next following section of this act, 32 Stat. 53, which is omitted, as temporary merely.

Provisions for the printing necessary to carry out the act to provide for the Thirteenth and subsequent decennial censuses were made by section 28 of that act, Act July 2, 1909, c. 2, § 28, post, § 4415.


§ 4415. (Act July 2, 1909, c. 2, § 28.) Printing of blanks, schedules, etc., and other miscellaneous printing, and printing of bulletins and reports and publishing and distributing thereof, by Public Printer.

The Director of the Census is hereby authorized to make requisition upon the Public Printer for such printing as may be necessary to carry out the provisions of this Act, to wit: Blanks, schedules, circulars, pamphlets, envelopes, work sheets, and other items of miscellaneous printing; that he is further authorized to have printed by the Public Printer, in such editions as the Director may deem necessary, preliminary and other Census bulletins, and final reports of the results of the several investigations authorized by this Act, or by the Act to establish a permanent Census Office and Acts amendatory (1812)
thereof or supplemental thereto, and to publish and distribute said bulletins and reports. (36 Stat. 10.)

See notes to section 1 of this act, ante, § 4385, and also to section 24 of this act, ante, § 4410.

A general provision making punishable the use of any official envelope, label, or inordinate to avoid payment of postage or registry fee is contained in Crim. Code, § 227, post, § 10397.

§ 4416. (Act July 2, 1909, c. 2, § 30.) Information from other Departments or offices.

The Secretary of Commerce [and Labor], whenever he may deem it advisable, or on request of the Director of the Census, is hereby authorized to call upon any other department or office of the Government for information pertinent to the work herein provided for. (36 Stat. 10.)

See notes to section 1 of this act, ante, § 4385.

The words "and Labor," inclosed in brackets in this section, were superseded by the change of the name of the Department of Commerce and Labor to that of the Department of Commerce, and of the Secretary of Commerce and Labor to that of Secretary of Commerce, by the act creating the Department of Labor, Act March 4, 1913, c. 141, § 1, ante, § 832.

§ 4417. (Act July 2, 1909, c. 2, § 31.) Census of agriculture and live stock in year 1915 and every 10 years thereafter.

There shall be in the year nineteen hundred and fifteen, and once every ten years thereafter, a census of agriculture and live stock, which shall show the acreage of farm land, the acreage of the principal crops, and the number and value of domestic animals on the farms and ranges of the country. The schedule employed in this census shall be prepared by the Director of the Census. Such census shall be taken as of October first, and shall relate to the current year. The Director of the Census may appoint enumerators or special agents for the purpose of this census, in accordance with the provisions of the permanent Census Act. (36 Stat. 10.)

See notes to section 1 of this act, ante, § 4385.

The permanent Census Act, mentioned in this section, Act March 6, 1902, c. 135, is set forth ante, §§ 906-911, and §§ 4386-4391.

§ 4418. (Act July 2, 1909, c. 2, § 32.) Certified copies from population or agricultural returns to be furnished to Governor of state or territory or to court of record; data for genealogical, etc., purposes to be furnished to individuals.

The Director of the Census is hereby authorized, at his discretion, upon the written request of the governor of any State or Territory, or of a court of record, to furnish such governor or court of record with certified copies of so much of the population or agricultural returns as may be requested, upon the payment of the actual cost of making such copies, and one dollar additional for certification; and that the Director of the Census is further authorized, in his discretion, to furnish to individuals such data from the population schedules as may be desired for genealogical or other proper purposes, upon payment of the actual cost of searching the records and one dollar for supplying a certificate; and the amounts so received shall be covered into the Treasury of the United States, to be placed to the credit of,
§ 4418  

THE CENSUS

(Tit. 31)

and in addition to, the appropriations made for taking the census. (36 Stat. 10.)

See notes to section 1 of this act, ante, § 4385.

§ 4419. (Act July 2, 1909, c. 2, § 33.) Repeal.

The Act establishing the permanent Census Office, approved March sixth, nineteen hundred and two, and Acts amending thereof and supplemental thereto, except as are herein amended, shall remain in full force. That the Act entitled "An Act to provide for taking the Twelfth and subsequent censuses," approved March third, eighteen hundred and ninety-nine, and all other laws and parts of laws inconsistent with the provisions of this Act are hereby repealed. (36 Stat. 10.)

See notes to section 1 of this act, ante, § 4385.

Act March 6, 1902, c. 139, as amended, is set forth ante, §§ 906–911, and §§ 4389–4391.

Act March 3, 1909, c. 419, 30 Stat. 1014, repealed by this section, provided for the taking of the Twelfth Census.

§ 4420. (Act June 30, 1906, c. 3914, § 1.) Publication of names of heads of families returned in First Census; sale of publications; report.

Census Office: The Director of the Census is hereby authorized and directed to publish, in a permanent form, by counties and minor civil divisions, the names of the heads of families returned at the First Census of the United States in seventeen hundred and ninety; and the Director of the Census is authorized, in his discretion, to sell said publications, the proceeds thereof to be covered into the Treasury of the United States, to be deposited to the credit of miscellaneous receipts on account of "Proceeds of sales of Government property;": Provided, That no expense shall be incurred hereunder additional to appropriations for the Census Office for printing therefor made for the fiscal year nineteen hundred and seven; and the Director of the Census is hereby directed to report to Congress at its next session the cost incurred hereunder and the price fixed for said publication and the total received therefor. (34 Stat. 722.)

This was a provision of the sundry civil appropriation act for the fiscal year 1907, cited above.

A further provision for the expense of continuing and completing the publication of names authorized by this act, was made by Act Feb. 15, 1908, c. 27, § 1, 35 Stat. 19.

§ 4421. (Act April 30, 1912, c. 102, § 1.) Collection of tobacco statistics; semi-annual reports of quantities in hands of dealers and manufacturers; manufacturers exempt.

The Director of the Census be, and he is hereby, authorized and directed to collect and publish, in addition to the tobacco reports now being made by him, statistics of the quantity of leaf tobacco in all forms in the United States in the possession of all persons who are dealers or manufacturers, other than the original growers of tobacco, to be summarized and returned by the holder to the Director of the Census as of the dates of October first and April first of each year, provided that the Director of the Census shall not be required to collect statistics of leaf tobacco from any manu-
facturer of tobacco who in the preceding calendar year, according to the returns to the Commissioner of Internal Revenue, manufactured less than fifty thousand pounds of tobacco, or from any manufacturer of cigars who during the preceding calendar year manufactured less than two hundred and fifty thousand cigars, or from any manufacturer of cigarettes who during the preceding calendar year manufactured less than one million cigarettes, or from any dealer in leaf tobacco who, on the average, had less than fifty thousand pounds in stock at the ends of the four quarters of the preceding calendar year, and every manufacturer of tobacco who, in the preceding calendar year, according to the return of the Commissioner of Internal Revenue manufactured more than fifty thousand pounds of tobacco, and every manufacturer of cigars who, during the preceding calendar year, manufactured more than two hundred and fifty thousand cigars, and every manufacturer of cigarettes who, during the preceding calendar year, manufactured more than one million cigarettes, and every dealer in or manufacturer of leaf tobacco who, on an average, during the preceding calendar year, had more than fifty thousand pounds in stock, at the ends of the four quarters of the preceding calendar year, shall, under oath, make written reports of the amounts held by them, as herein provided. (37 Stat. 106.)

This section and the seven sections next following were an act entitled "An act to authorize the Director of the Census to collect and publish additional statistics of tobacco."

§ 4422. (Act April 30, 1912, c. 102, § 2.) Types of tobacco to be specified; Director of Census to prepare blanks.

The Director of the Census shall specify the types of tobacco to be included in the reports of the holders thereof, and he shall specify the several types separately in making his reports. In securing reports by types, the Director of the Census shall follow substantially the classification of general types as recognized and adopted by the Department of Agriculture. That the Director of the Census shall prepare appropriate blanks upon which such reports shall be made and shall send a copy of same to any person subject to make reports under this Act, not more than fifteen nor less than ten days prior to the first days of October and April in each year, together with a written or printed demand that such person make the report required. (37 Stat. 107.)

§ 4423. (Act April 30, 1912, c. 102, § 3.) Reports required; penalty for failure to report; demand for report; notice of demand; corporation officers subject to penalties.

All persons subject to the provisions of this Act shall, within ten days after the first day of October and first day of April in each year, make written report to the Director of the Census the number of pounds of each of the several types of leaf tobacco owned by him as of the said dates, respectively. If any such person shall fail to make said report within the time prescribed, he shall be guilty of a misdemeanor, and upon conviction shall be fined not less than three hundred dollars or more than one thousand dol-
§ 4428. If any such person so liable to make such reports shall fail to make the same within the dates above specified, and thereafter the Director of the Census shall demand such report in writing, which demand shall be forwarded by registered mail, then if such person shall fail to make such report within twenty days after such demand so made, he shall also be deemed guilty of a misdemeanor, and upon conviction shall be imprisoned for not more than six months, in the discretion of the court. The depositing of the notice by the Director of Census in any post office shall be held to be prima facie evidence of the delivery of the notice to the holder of tobacco, from which date the period of twenty days shall begin to run. The president, general manager, or other chief officer of any corporation failing to make such reports as required by this Act shall be subject to the same penalties as are herein prescribed. (37 Stat. 107.)

The refusal or willful neglect of a manufacturer to answer any question upon the census schedule was made punishable by Act July 2, 1909, c. 2, § 24, ante, § 4310.

§ 4424. (Act April 30, 1912, c. 102, § 4.) Punishment for false reports; corporation officers liable.

Any person who shall make a false report to the Director of the Census as to the types or amounts of tobacco held or owned by him shall be guilty of a misdemeanor, and upon conviction shall be punished by imprisonment for not more than six months, in the discretion of the court. The president, general manager, or other officer of any corporation making such false report shall be subject to the same penalty as prescribed in this section. (37 Stat. 107.)

§ 4425. (Act April 30, 1912, c. 102, § 5.) “Person” defined.

The word “person” as used in this Act shall be held to embrace also any partnership, corporation, or association. (37 Stat. 107.)

§ 4426. (Act April 30, 1912, c. 102, § 6.) Information as to quantity of tobacco on hand to be used only for statistical purposes.

The information furnished under the provisions of this Act shall be used only for the statistical purposes for which it is supplied. No publication shall be made by the Director of the Census whereby the data furnished by any particular establishment can be identified, nor shall the Director of the Census permit anyone other than the sworn employees of the Census Office to examine the individual reports. (37 Stat. 107.)

Similar provisions as to the information required of manufacturers in general were made by Act July 2, 1909, c. 2, § 25, ante, § 4311.

§ 4427. (Act April 30, 1912, c. 102, § 7.) Co-operation of Commissioner of Internal Revenue with Director of Census.

The Director of the Census shall have access to the records of the Commissioner of Internal Revenue for the purpose of obtaining the information herein required, and the Commissioner of Internal Revenue shall cooperate with the Director of the Census in effectuating the purposes and provisions of this Act. (37 Stat. 107.)

(1816)
§ 4428. (Act April 30, 1912, c. 102, § 8.) Publication of tobacco reports.

The Director of the Census shall make his first report under this Act as of the first day of October, nineteen hundred and twelve, and he shall publish the same and all subsequent reports at a date as early as practicable after the first day of October and the first of April in each year. (37 Stat. 108.)

§ 4429. (Act July 22, 1912, c. 249, § 1.) Collection and publication of additional cotton statistics authorized.

The Director of the Census be, and he is hereby, authorized and directed to collect and publish statistics concerning the amount of cotton ginned; the quantity of raw cotton consumed in manufacturing establishments of every character; the quantity of baled cotton on hand; the number of active consuming cotton spindles; and the quantity of cotton imported and exported, with the country of origin and destination. (37 Stat. 198.)

This section and the five sections next following were an act entitled "An act authorizing the Director of the Census to collect and publish statistics of cotton."

The annual collection of statistics of cotton production and their publication weekly from September 1st of each year to February 1st following were required by Act March 6, 1902, c. 139, § 9, ante, § 4391.

Other previous provisions for the collection and publication of statistics of cotton consumption, surplus, and export summarized as of September 1st of each year and for semi-monthly reports of the amount of cotton ginned, were made by Res. Feb. 9, 1905, No. 16, 33 Stat. 1282, which was repealed by section 6 of this act, post, § 4434.

The Director of the Census was also authorized to collect and publish statistics of stocks of baled cotton in the United States, summarized as of November 1st, January 1st and March 1st of each year in addition to those previously required, by Res. March 2, 1908, No. 21, 35 Stat. 1185, also repealed by section 6 of this act, post, § 4434.

§ 4430. (Act July 22, 1912, c. 249, § 2.) Periods for quantity of cotton ginned; publication; monthly reports of other statistics; details of reports; distribution of publications; statistics furnished to Agricultural Department.

The statistics of the quantity of cotton ginned shall show the quantity ginned from each crop prior to September first, September twenty-fifth, October eighteen, November first, November fourteenth, December first, December thirteenth, January first, January sixteenth, and March first, and shall be published as soon as possible after these respective dates. The quantity of cotton consumed in manufacturing establishments, the quantity of baled cotton on hand, the number of active consuming cotton spindles, and the statistics of cotton imported and exported shall relate to each calendar month, and shall be published as soon as possible after the close of the month. Each report published by the Bureau of the Census of the quantity of cotton ginned shall carry with it the latest available statistics concerning the quantity of cotton consumed, stocks of baled cotton on hand, the number of cotton-consuming spindles, and the quantity of cotton imported and exported. All of these publications containing statistics of cotton shall be mailed by the Director of the Census to all cotton giners, (1817)
§ 4431  THE CENSUS

(cotton manufacturers, and cotton warehousemen, and to all daily newspapers throughout the United States. The Director of the Census shall furnish to the Bureau of Statistics of the Department of Agriculture, immediately prior to the publication of each report of that bureau regarding the cotton crop, the latest available statistics herebefore mentioned, and the said Bureau of Statistics shall publish the same in connection with each of its reports concerning cotton. (37 Stat. 198.)

§ 4431. (Act July 22, 1912, c. 249, § 3.) Information concerning cotton confidential; penalty for divulging information by employé of Census Bureau.

The information furnished by any individual establishment under the provisions of this Act shall be considered as strictly confidential and shall be used only for the statistical purpose for which it is supplied. Any employee of the Bureau of the Census who, without the written authority of the Director of the Census, shall publish or communicate any information given into his possession by reason of his employment under the provisions of this Act shall be guilty of a misdemeanor and shall, upon conviction thereof, be fined not less than three hundred dollars or more than one thousand dollars or imprisoned for a period of not exceeding one year, or both so fined and imprisoned, at the discretion of the court. (37 Stat. 198.)

The information secured for the census from any manufacturer was to be used only for statistical purposes, by Act July 2, 1909, c. 2, § 25, ante, § 4411. The publishing or communication of any information received by an employé of the Census Office by reason of his employment under the provisions of Act July 2, 1909, c. 2, or the act for a permanent Census Office, or the acts amendatory thereof or supplemental thereto, was made punishable by Act July 2, 1909, c. 2, § 22, ante, § 4408.

§ 4432. (Act July 22, 1912, c. 249, § 4.) Owners and officers of cotton ginneries, factories, etc., to furnish information; demand; notice; penalty for willful refusal.

It shall be the duty of every owner, president, treasurer, secretary, director, or other officer or agent of any cotton ginnery, manufacturing establishment, warehouse, or other place where cotton is ginned, manufactured, or stored, whether conducted as a corporation, firm, limited partnership, or by individuals, when requested by the Director of the Census or by any special agent or other employee of the Bureau of the Census acting under the instructions of said director, to furnish completely and correctly, to the best of his knowledge, all of the information concerning the quantity of cotton ginned, consumed, or on hand, and the number of cotton-consuming spindles. The request of the Director of the Census for information concerning the quantity of cotton ginned or consumed, stocks of cotton on hand, and number of spindles may be made in writing or by a visiting representative, and if made in writing shall be forwarded by registered mail, and the registry receipt of the Post Office Department shall be accepted as evidence of such demand. Any owner, president, treasurer, secretary, director, or other officer or agent of any cotton ginnery, manufacturing establishment, warehouse, or other place where

(1818)
cotton is ginned or stored, who, under the conditions hereinbefore stated, shall refuse or willfully neglect to furnish any of the information herein provided for or shall willfully give answers that are false shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not less than three hundred dollars or more than one thousand dollars or imprisoned for a period of not exceeding one year, or both so fined and imprisoned, at the discretion of the court. (37 Stat. 198.)

The refusal or willful neglect of a manufacturer to answer any questions on the census schedule was made punishable by Act July 2, 1906, c. 2, § 24, ante, § 4410.

§ 4433. (Act July 22, 1912, c. 249, § 5.) Compilation of information concerning production, consumption and stocks of cotton in foreign countries; publication of abstract of information with reports.

In addition to the information regarding cotton in the United States hereinbefore provided for, the Director of the Census shall compile, by correspondence or the use of published reports and documents, any available information concerning the production, consumption, and stocks of cotton in foreign countries, and the number of cotton-consuming spindles in such countries. Each report published by the Bureau of the Census regarding cotton shall contain an abstract of the latest available information obtained under the provisions of this section, and the Director of the Census shall furnish the same to the Department of Agriculture for publication in connection with the reports of that department concerning cotton in the same manner as in the case of statistics relating to the United States. (37 Stat. 199.)

§ 4434. (Act July 22, 1912, c. 249, § 6.) Repeal.

The joint resolution authorizing the Director of the Census to collect and publish additional statistics, approved February ninth, nineteen hundred and five, and the joint resolution approved March second, nineteen hundred and nine, and all other laws and parts of laws inconsistent with the provisions of this Act are hereby repealed. (37 Stat. 199.)

Res. Feb. 9, 1906, No. 18, 33 Stat. 1282, repealed by this section, authorized the collection and publication of statistics of cotton consumption, surplus and export, summarized as of September 1st of each year, and for semi-monthly reports of the amount of cotton ginned. It also authorized and directed the Director of the Census to collect and publish the statistics of marriage and divorce in the several States and Territories and the District of Columbia since January 1, 1887.

Res. March 2, 1909, No. 21, 35 Stat. 1168, also repealed by this section, authorized and directed the Director of the Census to collect and publish statistics of the stocks of baled cotton on hand, summarized as of November 1st, January 1st and March 1st of each year, in addition to those previously required.

(1819)
TITLE XXXII
THE PUBLIC LANDS

Chap.
1. Surveyors and deputy surveyors ........................................ 4435
2. Registers and receivers ..................................................... 4489
3. Land-districts—Provisions respecting particular districts .......... 4504
3a. Withdrawal from settlement, location, sale, or entry ................. 4523
4. Pre-emption .......................................................................... 4530
5. Homesteads ........................................................................... 4613
6. Mineral lands and mining resources ....................................... 4613
6a. Timber and stone lands ....................................................... 4671
6b. Desert and arid lands, and irrigation and reclamation .............. 4674
7. Sale and disposal of the public lands ..................................... 4751
8. Reservation and sale of town-sites on the public lands .......... 4784
9. Survey of the public lands .................................................... 4803
10. Bounty-lands ........................................................................ 4826
10a. Reservations and grants to states for public purposes .......... 4890
10b. Grants in aid of railroads and wagon roads ......................... 4892
10c. Rights of way and other easements in public lands .............. 4918
10d. Grants of swamp and overflowed lands ............................... 4958
10e. Drainage under state laws ................................................ 4970
10f. Protection of timber, and depredations ............................... 4977
10g. Unlawful encroachment or occupancy; obstructing settlement or transit 4997
10h. Abandoned military reservations ........................................ 5008
10i. Ceded Indian reservations ................................................ 5013
10j. Public lands in Oklahoma .................................................... 5020
10k. Public lands in Alaska ....................................................... 5045
11. Miscellaneous provisions relating to the public lands ............ 5097

CHAPTER ONE
Surveyors and Deputy Surveyors

Sec. 4455. Transfer to Nebraska and Iowa of records of surveys; office of surveyor-general abolished; safe-keeping of and access to records.

Sec. 4460. Clerk-hire, allowance of, to surveyor-general.

Sec. 4461. Office-rent, allowance of, to surveyor-general.

Sec. 4462. Stationery, etc., for mineral surveys to be paid for from special fund.

Sec. 4463. Duties of register and receiver performed by surveyor-general.

Sec. 4464. Official papers, etc., in office of surveyor-general of California; copies thereof.

Sec. 4465. Bond of deputy-surveyor.

Sec. 4466. Oath of deputy-surveyor.

Sec. 4467. Suit on bond of deputy surveyor, lien of.

Sec. 4468. Penalty for default of deputy.

§ 4435. (R. S. § 2207.) Surveyors-general, how and where appointed.

There shall be appointed by the President, by and with the advice and consent of the Senate, a surveyor-general for the States and Territories herein named, embracing, respectively, one surveying district, namely: [Louisiana], [Florida], [Minnesota], [Kansas], California, Nevada, Oregon, [Nebraska and Iowa], [Dakota], Colorado, New Mexico, Idaho, Washington, Montana, Utah, Wyoming, Arizona.


The names of the States and Territories inclosed in brackets in this section were superseded by the abolition or discontinuance of the office of surveyor-general in those states, respectively, as follows:

The office of surveyor-general for the State of Kansas was abolished by a provision of Act July 31, 1876, c. 246, post, § 4439.

The office of surveyor-general for the States of Nebraska and Iowa was abolished by a provision of Act Oct. 2, 1888, c. 1069, post, § 4445.

The office of surveyor-general for the Territory of Dakota, provided for by this section, was not abolished by express enactment, but the provision of Act April 10, 1890, c. 77, § 1, post, § 4437, creating the office of surveyor-general for each of the States of North Dakota and South Dakota, had the effect of abolishing the office in the Territory of Dakota.

R. S. § 2218, post, § 4451, provided for the discontinuance of the office of surveyor-general in various districts on the completion of the surveys and records.

In pursuance of R. S. §§ 2218–2221, etc., post, §§ 4451–4454, the office has ceased in the States of Louisiana, Florida, Minnesota, and North Dakota.

The office of surveyor-general for each of the States of North Dakota and South Dakota were created by Act April 10, 1890, c. 77, § 1, post, § 4437, but that office for North Dakota has since been discontinued.

The office of surveyor-general for the District, now Territory, of Alaska was created by Act July 24, 1897, c. 14, § 2, post, § 4438.

As the result of the changes mentioned, surveyors-general are established (1821)
§ 4435  THE PUBLIC LANDS

in the following States, etc., only: California, Nevada, Oregon, South Dakota, Colorado, New Mexico, Idaho, Washington, Montana, Utah, Wyoming, Arizona, Alaska.

In each of the other States containing public lands, the office of surveyor-general has been discontinued, and the records and papers appertaining to surveys, etc., have been delivered to officers of the respective States, under the provisions of Rev. St. §§ 2218-2221, post, §§ 4451-4456, or provisions incorporated therein, or of Act Oct. 2, 1888, c. 1068, post, § 4455. Those States are the following: Alabama, Arkansas, Florida, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Wisconsin.

The Secretary of the Interior was authorized and directed, whenever practicable, to consolidate the offices of two or more surveyors-general into one office, by a provision of Act March 3, 1888, c. 211, § 1, post, § 4444.

§ 4436. (Act July 31, 1876, c. 246.) Office of surveyor-general for Kansas abolished.

The office of the surveyor-general of Kansas is hereby abolished from and after the thirtieth of September next. (19 Stat. 121.)

This was a provision of the sundry civil appropriation act for the fiscal year 1877, cited above.

§ 4437. (Act April 10, 1890, c. 77, § 1.) Offices of surveyor-general for North Dakota and South Dakota.

There shall be appointed by the President, by and with the advice and consent of the Senate, a surveyor-general each for the States of North Dakota and South Dakota, embracing, respectively, one surveying district. (26 Stat. 53.)

This section was part of an act entitled "An act to create the offices of surveyor-general in the States of North Dakota and South Dakota," cited above.

Section 2 of the act, fixing the salaries of these surveyors-general, is set forth post, § 4442.

The offices created by this section superseded the office of surveyor-general for the Territory of Dakota, under R. S. § 2207, ante, § 4455.


There shall be appointed by the President, by and with the advice and consent of the Senate, a surveyor-general for the [District] of Alaska, embracing one surveying district. (30 Stat. 215.)

This section was part of an act to amend section 8 of the Alaska Civil Government Act of May 17, 1884, and to create the office of surveyor-general for Alaska, etc.

The word "District," inclosed in brackets in this section, was superseded by the organization of Alaska as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3528-3544.

Section 1 of this act amended said Act May 17, 1884, c. 53, § 8, 23 Stat. 28, which act provided a civil government for Alaska, by striking out part of said section 8, including a provision that the marshal provided for by that act should be ex officio surveyor-general of the land-district of Alaska created by the same section. The act so amended was superseded by Act June 6, 1900, c. 788, 31 Stat. 321, which made further provision for a civil government for Alaska.

Section 3 of this act, fixing the salary of the surveyor-general, is set forth post, § 4443.

Section 4 of this act authorized the division of the Territory into two land-districts, and the appointment of a register and receiver for the additional land-office, and provided that the surveyor-general shall serve in both districts; and further provisions for the establishment, discontinuance, etc., of (1822)
land-districts, and offices therein, in Alaska, and the appointment, compensation, etc., of registers and receivers therefor, were made by Act May 14, 1868, c. 280, § 12, post, § 4517.

The surveyor-general of the district was made secretary thereof, by Act June 6, 1900, c. 788, § 3, 31 Stat. 322, which section—part of the act making further provision for a civil government for Alaska—was as follows:

"The surveyor-general of the district shall be ex officio secretary thereof, and as such shall be custodian of the district seal, which shall be provided by the Attorney-General. The surveyor-general, as ex officio secretary of the district, shall perform the official duties required by law to be performed by the secretary of a Territory of the United States, in so far as applicable to said district, and such other duties as may be required by law."

(R. S. § 2208. Superseded.)

This section fixed the salaries of the surveyors-general of Louisiana, Florida, Minnesota, Kansas, Nebraska and Iowa, and of Dakota Territory. It was superseded by the abolition of that office in Kansas by Act July 31, 1876, c. 246, ante, § 4436, and in Nebraska and Iowa by Act Oct. 2, 1888, c. 1089, post, § 4455, and by its discontinuance in Louisiana, Florida, and Minnesota under the authority given the Secretary of the Interior by R. S. § 2213, post, § 4451, and in the Territory of Dakota by the creation of a similar office for each of the States of North Dakota and South Dakota, by Act April 10, 1890, c. 77, § 1, ante, § 4437. See, also, note to R. S. § 2207, ante, § 4435.


The surveyors-general of Oregon and of Washington shall each receive a salary at the rate of two thousand five hundred dollars a year.


The amounts of the salaries actually paid to the respective surveyors-general depend on the sums annually appropriated therefor. The sums appropriated by the legislative, executive, and judicial appropriation act for the fiscal year 1914, Act March 4, 1913, c. 142, 37 Stat. 777, were as follows: Alaska, $4,000 for surveyor-general and ex-officio secretary of the district; Arizona, $3,000; California, $3,000; Colorado, $3,000; Montana, $3,000; Nevada, $3,000; New Mexico, $3,000; Oregon, $3,000; South Dakota, $2,000; Utah, $3,000; Washington, $3,000; Wyoming, $3,000.


The surveyors-general of Colorado, New Mexico, California, Idaho, Nevada, Montana, Utah, Wyoming, and Arizona, shall each receive a salary at the rate of three thousand dollars a year.


§ 4441. (R. S. § 2211.) Salaries of, in Oregon and California, how and from what time payable.

The salary of each surveyor-general of [Florida], Oregon, and Cali-
§ 4441  THE PUBLIC LANDS  (Tit. 32)

fornia shall be paid quarter-yearly, and shall commence from the time he enters into bond, as provided by law.


The word "Florida," inclosed in brackets in this section, was superseded by the discontinuance of the office of surveyor-general in that State. See note to R. S. § 2207, ante, § 4435.

See note to R. S. § 2208, ante, § 4439, as to salaries of surveyors-general.

§ 4442. (Act April 10, 1890, c. 77, § 2.) Salaries of surveyor-general for South Dakota.

The surveyors-general of [North Dakota and] South Dakota shall each receive a salary at the rate of two thousand dollars per annum. (26 Stat. 53.)

See note to section 1 of this act, ante, § 4437, and also note to R. S. § 2209, ante, § 4439, as to salaries of surveyors-general.

The words "North Dakota and," inclosed in brackets in this section, were superseded by the discontinuance of the office in that State. See note to R. S. § 2207, ante, § 4435.

§ 4443. (Act July 24, 1897, c. 14, § 3.) Salary of surveyor-general for Alaska.

The surveyor-general of Alaska shall receive a salary at the rate of two thousand dollars per annum. (30 Stat. 215.)

See note to section 2 of this act, ante, § 4438, and also note to R. S. § 2209, ante, § 4439, as to salaries of surveyors-general.

§ 4444. (Act March 3, 1893, c. 211, § 1.) Consolidation of offices of surveyor-general; salary.

That hereafter the Secretary of the Interior be, and he is hereby, authorized and directed, whenever practicable, to consolidate the offices of two or more surveyor generals into one office, and in cases of such consolidation, in the discretion of the Secretary, the surveyor-general appointed in charge of a consolidated office may be paid a salary not exceeding two thousand five hundred dollars per annum, from the sums appropriated respectively for the salaries of the surveyors-general whose offices may be consolidated hereunder. (27 Stat. 709.)

This was a provision of section 1 of the legislative, executive, and judicial appropriation act for the fiscal year 1894, cited above.

See note to R. S. § 2209, ante, § 4439, as to salaries of surveyors-general.

§ 4445. (R. S. § 2212.) Offices, number and location of.

There shall be but one office of surveyor-general in each surveyor-general's district; and such office shall be located as the President, in view of the public convenience, may from time to time direct, except as provided in the following section.


§ 4446. (R. S. § 2213.) Office, location of, in Idaho.

The surveyor-general's office for [Minnesota district] shall continue to be located [at the city of Saint Paul]; that for Idaho [Territory], at Boise City; [and that for the district of Nebraska and Iowa, at Plattsmouth, in Nebraska.]


The word "Territory," inclosed in brackets in this section, was superseded (1824)
by the admission of Idaho into the Union by Act July 3, 1890, c. 656, 26 Stat. 215.
The other words inclosed in brackets in this section were superseded by the discontinuance of the office of surveyor-general in Minnesota and its abolition in Iowa and Nebraska. See note to R. S. § 2207, ante, § 4435.

§ 4447. (R. S. § 2214.) Residence of surveyor-general.
Every surveyor-general, while in the discharge of the duties of his office, shall reside in the district for which he is appointed.
Act March 3, 1843, c. 100, § 1, 5 Stat. 637.

§ 4448. (R. S. § 2215.) Bond of surveyor-general.
Every surveyor-general shall, before entering on the duties of his office, execute and deliver to the Secretary of the Interior a bond, with good and sufficient security, for the penal sum of thirty thousand dollars, conditioned for the faithful disbursement, according to law, of all public money placed in his hands, and for the faithful performance of the duties of his office.
Act May 7, 1822, c. 118, § 1, 3 Stat. 697.

§ 4449. (R. S. § 2216.) New bond of, and additional security.
The President is authorized, whenever he may deem it expedient, to require any surveyor-general to give a new bond and additional security, under the direction of the Secretary of the Interior, for the faithful disbursement, according to law, of all money placed in his hands.
Act May 7, 1822, c. 118, § 8, 3 Stat. 697.

§ 4450. (R. S. § 2217.) Duration of office.
The commission of every surveyor-general now in office, and of every surveyor-general hereafter appointed, shall cease and expire, unless sooner vacated by death, resignation, or removal from office, in four years from the date of the commission.
Act May 7, 1822, c. 118, § 2, 3 Stat. 697.

§ 4451. (R. S. § 2218.) Completion of surveys, delivery of field-notes, etc.
The Secretary of the Interior shall take all the necessary measures for the completion of the surveys in the several surveying-districts for which surveyors-general have been, or may be, appointed, at the earliest periods compatible with the purposes contemplated by law; and whenever the surveys and records of any such district are completed, the surveyor-general thereof shall be required to deliver over to the secretary of state of the respective States, including such surveys, or to such other officer as may be authorized to receive them, all the field-notes, maps, records, and other papers appertaining to land titles within the same; and the office of surveyor-general in every such district shall thereafter cease and be discontinued.
Act June 12, 1840, c. 36, § 1, 5 Stat. 384.
See note to R. S. § 2207, ante, § 4435, as to the States in which the records, etc., appertaining to the surveys of public lands have been delivered to the officers of the respective States under the provisions of this section and the two sections next following.
All records, etc., belonging to the office of the recorder of land titles for Missouri were delivered to the State upon the discontinuance of the office, by Comp. St. '13—115 (1825)
provisions of Act June 6, 1874, c. 223, § 3, and Act July 31, 1876, c. 246, post, §§ 4514, 4515.

A survey, pursuant to this section, of unsurveyed lands in Louisiana, was provided for by Act May 25, 1906, c. 2554, 34 Stat. 199, which is omitted as temporary merely, and executed.

Resurveys or retracements of surveys, to mark the boundaries of the public lands remaining undisposed of, were authorized by Act March 3, 1906, c. 271, post, § 4824.

§ 4452. (R. S. § 2219.) Devolution of surveyor-general's powers upon Commissioner of Land Office, when.

In all cases where, as provided in the preceding section, the field-notes, maps, records, and other papers appertaining to land-titles in any State are turned over to the authorities of such State, the same authority, powers, and duties in relation to the survey, resurvey, or subdivision of the lands therein, and all matters and things connected therewith, as previously exercised by the surveyor-general, whose district included such State, shall be vested in, and devolved upon, the Commissioner of the General Land-Office.

Act Jan. 22, 1853, c. 24, § 1, 10 Stat. 152.

§ 4453. (R. S. § 2220.) Free access to field-notes, etc., delivered to States.

Under the authority and direction of the Commissioner of the General Land-Office, any deputy surveyor or other agent of the United States shall have free access to any such field-notes, maps, records, and other papers, for the purpose of taking extracts therefrom, or making copies thereof, without charge of any kind.


§ 4454. (R. S. § 2221.) Conditions of delivery of field-notes to the States.

The field-notes, maps, records, and other papers mentioned in section twenty-two hundred and nineteen, shall in no case be turned over to the authorities of any State, until such State has provided by law for the reception and safe-keeping of the same as public records, and for the allowance of free access to the same by the authorities of the United States.


§ 4455. (Act Oct. 2, 1888, c. 1069.) Transfer to Nebraska and Iowa of records of surveys; office of surveyor-general abolished; safe-keeping of and access to records.

That the Secretary of the Interior be, and is hereby, authorized to transfer to the Secretary of state of the States of Nebraska and Iowa, or to such officers as may be entitled to receive them, the field-notes, maps, records, and other papers appertaining to land surveys in said States which are now stored in the district land-office at Lincoln, Nebraska; and the office of surveyor-general for the district of Nebraska and Iowa is hereby abolished: Provided, That the aforesaid field-notes, maps, records, and other papers pertaining to the State of Nebraska shall not be delivered to the proper authorities until said State shall have provided by law for the safe keeping of the same as public records, and for the allowance of free access to field-notes, maps, records, and other papers by the authorities of

(1826)
the United States, as provided by section twenty-two hundred and twenty-one of the Revised Statutes of the United States, the State of Iowa having heretofore enacted the requisite legislation. (25 Stat. 525.)

This was a provision of the sundry civil appropriation act for the fiscal year ending June 30, 1889, cited above.

See note to R. S. § 2207, ante, § 4455.

R. S. § 2221, referred to in this section, is set forth ante, § 4454.

§ 4456. (R. S. § 2222.) Continuation of duties after expiration of commission.

Every surveyor-general, register, and receiver, except where the President sees cause otherwise to determine, is authorized to continue in the uninterrupted discharge of his regular official duties, after the day of expiration of his commission, and until a new commission is issued to him for the same office, or until the day when a successor enters upon the duties of such office; and the existing official bond of any officer so acting shall be deemed good and sufficient, and in force, until the date of the approval of a new bond to be given by him, if re-commissioned, or otherwise, for the additional time he may so continue officially to act, pursuant to the authority of this section.


§ 4457. (R. S. § 2223.) General duties of surveyors-general.

Every surveyor-general shall engage a sufficient number of skillful surveyors as his deputies, to whom he is authorized to administer the necessary oaths upon their appointments. He shall have authority to frame regulations for their direction, not inconsistent with law or the instructions of the General Land-Office, and to remove them for negligence or misconduct in office.

Second. He shall cause to be surveyed, measured, and marked, without delay, all base and meridian lines through such points and perpetuated by such monuments, and such other correction parallels and meridians as may be prescribed by law or by instructions from the General Land-Office, in respect to the public lands within his surveying-district, to which the Indian title has been or may be hereafter extinguished.

Third. He shall cause to be surveyed all private land-claims within his district after they have been confirmed by authority of Congress, so far as may be necessary to complete the survey of the public lands.

Fourth. He shall transmit to the register of the respective land-offices within his district general and particular plats of all lands surveyed by him for each land-district; and he shall forward copies of such plats to the Commissioner of the General Land-Office.

Fifth. He shall, so far as is compatible with the desk-duties of his office, occasionally inspect the surveying operations while in progress in the field, sufficiently to satisfy himself of the fidelity of the execution of the work according to contract, and the actual and necessary expenses incurred by him while so engaged shall be allowed; and where it is incompatible with his other duties for a surveyor-general to devote the time necessary to make a personal inspection of the
work in progress, then he is authorized to depute a confidential agent to make such examination; and the actual and necessary expenses of such person shall be allowed and paid for that service, and five dollars a day during the examination in the field; but such examination shall not be protracted beyond thirty days; and in no case longer than is actually necessary; and when a surveyor-general, or any person employed in his office at a regular salary, is engaged in such special service, he shall receive only his necessary expenses in addition to his regular salary.


Provisions different from those of the fifth paragraph of this section, for inspection of surveying operations, are made by the recent sundry civil appropriation acts, in connection with the appropriations for surveys and resurveys for the current year, and limited to the expenditure of the particular appropriation. The provision for the fiscal year 1814 was by Act June 23, 1913, c. 3, § 1, 38 Stat. 46.

The surveyors-general were required to keep accurate accounts of the cost of surveying and platting private land claims, and to report the same to the General Land-Office, with the map of such claim, by Act July 31, 1876, c. 246, post, § 4800.

The duties of the surveyor-general of Alaska were prescribed by Act March 2, 1907, c. 2537, § 4, post, § 4522.

§ 4458. (R. S. § 2244.) Seals of surveyors-general of California, Oregon, and Louisiana; transcripts from records of.

The official seals heretofore authorized to be provided for the offices of the surveyors-general of Oregon, California, and Louisiana shall continue to be used; and any copy of or extract from the plats, field-notes, records, or other papers on file in those offices, respectively, when authenticated by the seal and signature of the proper surveyor-general, shall be evidence in all cases in which the original would be evidence.


The office of surveyor-general in Louisiana has been discontinued. See note to R. S. § 2207, ante, § 4455.

§ 4459. (R. S. § 2225.) Transcripts from records of Louisiana.

Any copy of a plat of survey, or transcript from the records of the office of surveyor-general of Louisiana, duly certified by him, shall be admitted as evidence in all the courts of the United States and the Territories thereof.


The office of surveyor-general in Louisiana has been discontinued. See note to R. S. § 2207, ante, § 4435.

§ 4460. (R. S. § 2226.) Clerk-hire, allowance of, to surveyors-general.

There shall be allowed for the offices of the several surveyors-general, for clerk-hire therein, such sums as may be appropriated for the purpose by Congress from year to year.

See appropriation acts.

Appropriations for clerk hire and other expenses in the offices of the surveyors-general are made in the annual legislative, executive, and judicial appropriation acts. The provisions for the fiscal year 1914 were by Act March 4, 1913, c. 142, § 1, 37 Stat. 777.

(1828)
§ 4461. (R. S. § 2227.) Office-rent, allowance of, to surveyors-general.

There shall be allowed for office-rent, fuel, books, stationery, and other incidental expenses of the several offices of surveyors-general such sums as may be appropriated for the purpose by Congress, from year to year.

See appropriation acts.

Appropriations for office rent and other expenses for the offices of the surveyors-general are made in the annual legislative, executive, and judicial appropriation acts. The provisions for the fiscal year 1914 were by Act March 4, 1913, c. 142, § 1, 37 Stat. 777.

Such appropriations for recent years are accompanied by a restriction on incurring expenses chargeable thereto, which in said Act March 4, 1913, c. 142, § 1, was as follows:

"No expenses chargeable to the foregoing appropriations for clerk hire and incidental expenses in the offices of the surveyors-general shall be incurred by the respective surveyors-general in the conduct of said offices, except upon previous specific authorization by the Commissioner of the General Land Office."

A proviso contained in Act March 3, 1901, c. 830, § 1, relating to payment for stationery, etc., for use in making mineral surveys, is set forth post, § 4462.

§ 4462. (Act March 3, 1901, c. 830, § 1.) Stationery, etc., for mineral surveys to be paid for from special fund.

The stationery and drafting instruments hereafter purchased for exclusive use in the offices of the surveyors-general in the preparation of plats and field notes of mineral surveys, as also the rent of additional quarters that may be necessary for the execution of such work, shall be paid for out of the fund created by deposits made by individuals to the credit of the United States to cover the cost of office work on such mineral surveys. (31 Stat. 1003.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1902, cited above.

Payment by individuals of expenses of surveys of mining claims was provided for by R. S. § 2264, post, § 4042.

§ 4463. (R. S. § 2228.) Duties of register and receiver performed by surveyor-general.

The President is authorized, in any case where he thinks the public interest may require it, to transfer the duties of register and receiver in any district to the surveyor-general of the surveying-district in which such land-district is located.


§ 4464. (R. S. § 2229.) Official papers, etc., in office of surveyor-general of California; copies thereof.

All official books, papers, instruments of writing, documents, archives, official seals, stamps, or dies, which have been heretofore authorized by law to be collected and deposited in the surveyor-general's office in California, shall be safely and securely kept by such surveyor-general in the archives of his office; and copies thereof, authenticated by the surveyor-general under his seal of office, shall be evidence in all cases where the originals would be evidence.

Act May 18, 1858, c. 39, § 1, 11 Stat. 289.

(1829)
§ 4465. (R. S. § 2230.) Bond of deputy-surveyor.

Every deputy-surveyor shall enter into bond, with sufficient security, for the faithful performance of all surveying contracts confided to him; and the penalty of the bond, in each case, shall be double the estimated amount of money accruing under such contracts, at the rate per mile stipulated to be paid therein. The sufficiency of the sureties to all such bonds shall be approved and certified by the proper surveyor-general.


§ 4466. (R. S. § 2231.) Oath of deputy-surveyor.

The surveyors-general, in addition to the oath now authorized by law to be administered to deputies on their appointment to office, shall require each of their deputies, on the return of his surveys, to take and subscribe an oath that those surveys have been faithfully and correctly executed, according to law and the instructions of the surveyor-general.

Act Aug. 8, 1846, c. 106, § 2, 9 Stat. 79.

§ 4467. (R. S. § 2232.) Suit on bond of deputy surveyor, lien of.

The district attorney of the United States, in whose district any false, erroneous, or fraudulent surveys have been executed, shall, upon the application of the proper surveyor-general, immediately institute suit upon the bond of such deputy; and the institution of such suit shall act as a lien upon any property owned by, or held by such deputy, or his sureties, at the time such suit was instituted.

Act Aug. 8, 1846, c. 106, § 2, 9 Stat. 79.

§ 4468. (R. S. § 2233.) Penalty for default of deputy.

In the event of the failure of a deputy in Louisiana to comply with the terms of his contract, unless such failure be satisfactorily shown by him to have arisen from causes beyond his control, he shall be debarred from receiving a contract for surveying public lands.


CHAPTER TWO

Registers and Receivers

Sec.
4469. Appointment of registers and receivers; duties; liabilities on bonds.
4470. Residence of register and receiver.
4471. Bond of register and receiver.
4472. Salaries of register and receiver.
4473. Fees and commissions of register and receiver.
4474. Fees for transcripts of records; transcripts, as evidence.
4475. Fees of register and receiver for consolidated land-office.

(1830)
Sec. 4492. Repayment of excess payments.
4493. Certification of amount of excess moneys, purchase moneys, etc., and repayment.
4494. Oaths administered by registers and receivers.
4495. Penalty for false information by register.
4496. Vacancy in office of register or receiver; taking final proofs.
4497. Disqualification of register or receiver.
4498. Designation of officer to act in place of disqualified register or receiver.
4499. Subpoenas for attendance of witnesses before registers and receivers.
4500. Witnesses' fees.
4501. Disobedience to subpoena, punishable.
4502. Depositions of witnesses residing outside the county.
4503. Continuing taking depositions in behalf of opposite party.

§ 4469. (R. S. § 2234, as amended, Act Jan. 27, 1898, c. 10.) Appointment of registers and receivers; duties; liabilities on bonds.

There shall be appointed by the President, by and with the advice and consent of the Senate, a register of the land office and a receiver of public moneys for each land district established by law, who shall have charge of and attend to the sale of public and Indian lands within their respective districts, as provided by law and official regulations, and receivers shall be accountable under their official bonds for the proceeds of such sales, and for all fees, commissions, or other moneys received by them under any provision of law or official regulation.


This section, as enacted in the Revised Statutes, contained only the provision at the beginning thereof, for appointment of registers and receivers. The further provisions, beginning with the words "who shall have charge," etc., to the end of the section as set forth here, were added by amendment by Act Jan. 27, 1898, c. 10, last cited above.

The various acts creating new land-districts usually contain provisions for the appointment of a register and receiver of public moneys therefor, fixing the salaries of said officers, and prescribing their duties. These acts are collated in the note to R. S. § 2256, post, under Chapter 3 of this Title, subchapter "Provisions Respecting Particular Districts."

The clerks of the district courts at Nome and Fairbanks, in Alaska, were made, respectively, ex-officio registers of the land-offices at Nome and Fairbanks, and the marshals of the said courts at Nome and Fairbanks ex-officio receivers of public moneys for the Nome and Fairbanks land districts, by Act March 2, 1907, c. 2537, § 2, post, § 4520.

(1831)
§ 4470. (R. S. § 2235.) Residence of register and receiver.
Every register and receiver shall reside at the place where the land-office for which he is appointed is directed by law to be kept.
See all acts establishing land-districts.
See notes to R. S. § 2234, ante, § 4460.

§ 4471. (R. S. § 2236.) Bond of register and receiver.
Every register and receiver shall, before entering on the duties of his office, give bond in the penal sum of ten thousand dollars, with approved security, for the faithful discharge of his trust.
Act May 10, 1800, c. 55, §§ 1, 6, 2 Stat. 73, 75. Act March 3, 1853, c. 145, § 5, 10 Stat. 245.
The receivers are liable on their official bonds for the proceeds of public and Indian lands, and for all fees, commissions, or other money received by them under any provision of law or official regulation, by R. & & § 2234, as amended by Act Jan. 27, 1808, c. 10, ante, § 4460.

§ 4472. (R. S. § 2237.) Salaries of register and receiver.
Every register and receiver shall be allowed an annual salary of five hundred dollars.
The fees to which registers and receivers are entitled in addition to their annual salaries were prescribed by R. S. § 2238, post, § 4473.
The salaries of the registers and receivers for the districts in Alaska were fixed, and they were allowed in addition fees and commissions, by provisions of Act May 14, 1866, c. 290, § 12, post, § 4517. Act Feb. 14, 1902, c. 17, § 1, post, § 4518, and Act March 2, 1907, c. 1232, §§ 2, 3, post, §§ 4520, 4521.

§ 4473. (R. S. § 2238, as amended, Act Dec. 17, 1880, c. 2, and Act May 29, 1908, c. 220, § 14.) Fees and commissions of register and receiver.
Registers and receivers, in addition to their salaries, shall be allowed each the following fees and commissions, namely:
First. A fee of one dollar for each declaratory statement filed [and for services in acting on pre-emption claims].
Act Sept. 4, 1841, c. 10, § 12, 5 Stat. 456. Act March 21, 1864, c. 38, §§ 13, 35. The words inclosed in brackets in this subsection became operative upon the repeal of the pre-emption laws by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See note under Chapter 4 of this Title.
Second. A commission of one per centum on all moneys received at each receiver’s office.
Act April 20, 1818, c. 123, 3 Stat. 466.
Third. A commission to be paid by the homestead applicant, at the time of entry, of one per centum on the cash price, as fixed by law, of the land applied for; and a like commission when the claim is finally established, and the certificate therefor issued as the basis of a patent.
Fourth. The same commission on lands entered under any law to encourage the growth of timber on western prairies, as allowed when the like quantity of land is entered with money.
Act March 3, 1873, c. 277, § 6, 17 Stat. 606. The laws to encourage the growth of timber mentioned in this subsection (1832)
were repealed, except as to rights accrued and claims already initiated, by
Act March 3, 1881, c. 503, post, § 5118.

Fifth. For locating military bounty-land warrants, issued since the
eleventh day of February, eighteen hundred and forty-seven, and for
locating agricultural-college land-scrip, the same commission, to be
paid by the holder or assignee of each warrant or scrip, as is allowed
for sales of the public lands for cash, at the rate of one dollar and
twenty-five cents per acre.
Act March 22, 1852, c. 19, § 2, 10 Stat. 4. Act July 2, 1862, c. 130, § 7, 12
Stat. 505.

Sixth. A fee in donation cases of two dollars and fifty cents for
each final certificate for one hundred and sixty acres of land, five
dollars for three hundred and twenty acres, and seven dollars and
fifty cents for six hundred and forty acres.
Stat. 311.
This subsection was amended by Act Dec. 17, 1880, c. 2, cited above, by
changing the amounts of the fees from five, ten, and fifteen dollars, respective-
ly, to the amounts set forth here.

Seventh. In the location of lands by States and corporations under
grants from Congress for railroads and other purposes, (except for
agricultural colleges,) a fee of one dollar for each final location of one
hundred and sixty acres; to be paid by the State or corporation
making such location.
Act July 1, 1864, c. 196, § 1, 13 Stat. 335.

Eighth. A fee of five dollars per diem for superintending public-
land sales at their respective offices; [and, to each receiver, mileage
in going to and returning from depositing the public moneys re-
ceived by him].
Act April 24, 1829, c. 51, § 5, 3 Stat. 567.
The words inclosed in brackets in this subsection were superseded by the
provision that only actual traveling expenses should be allowed to any person
holding employment or appointment under the United States, with certain ex-
ceptions, contained in Act March 3, 1875, c. 133, § 1, ante, § 3236.

Ninth. A fee of five dollars for filing and acting upon each applica-
tion for patent or adverse claim filed for mineral lands, to be paid by
the respective parties.
Act May 10, 1872, c. 152, § 12, 17 Stat. 95.

Tenth. Registers and receivers are allowed, jointly, at the rate of
fifteen cents per hundred words for testimony reduced by them to
writing for claimants, in establishing pre-emption, desert-land, and
homestead rights.
14, 35 Stat. 468.
This subsection was amended by Act May 29, 1906, c. 220, § 14, cited
above, by inserting the term "desert-land."

Eleventh. A like fee as provided in the preceding subdivision when
such writing is done in the land-office, in establishing claims for
mineral lands.
Act May 10, 1872, c. 152, § 12, 17 Stat. 95.

(1833)
§ 4473.

THE PUBLIC LANDS

Twelfth. Registers and receivers in California, Oregon, Washington, Nevada, Colorado, Idaho, New Mexico, Arizona, Utah, Wyoming, and Montana, are each entitled to collect and receive fifty per centum on the fees and commissions provided for in the first, third, and tenth subdivisions of this section.

Act March 21, 1864, c. 38, § 6, 13 Stat. 36, and several acts establishing land-offices for Utah, Wyoming, and Montana.

 Registers and receivers were to be entitled to such compensation for furnishing maps or plats of lands sold as might be prescribed by the Commissioner of the General Land Office, by Act March 3, 1883, c. 101, § 2, post, § 4-378.

 A fee of $1 to the register for giving to contestants, notice of cancellation of entries, was provided for by Act May 14, 1880, c. 89, § 2, as amended by Act July 26, 1892, c. 251, post, § 4537.

 The usual commissions were allowed on all moneys paid for lands entered under the Reclamation Act of June 17, 1902, c. 1003, by a provision of section 5 of that act, post, § 4704.

 Additional fees to registers and receivers for making transcripts of the records in their offices for individuals were authorized, and such transcripts, when duly certified, were made admissible as evidence, by Act March 22, 1904, c. 748, post, § 4474.

§ 4474. (Act March 22, 1904, c. 748.) Fees for transcripts of records; transcripts as evidence.

 Registers and receivers of United States land offices shall, in addition to the fees now allowed by law, be entitled to charge and receive for making transcripts of the records in their offices for individuals, the sum of ten cents per hundred words for each transcript so furnished; and the transcripts thus furnished, when duly certified to by them, shall be admitted as evidence in all courts of the United States and the Territories thereof, and before all officials authorized to receive evidence, with the same force and effect as the original records. (33 Stat. 144.)

 This was an act entitled “An act to authorize registers and receivers of United States land offices to furnish transcripts of their records to individuals.”

 Provisions for certifying copies of records, books, and papers in the General Land Office, and for transmission of original papers on file in the office, for use as evidence, were made by Rev. St. § 501, ante, § 1504, by R. S. § 2469, ante, § 706, and by Act April 10, 1904, c. 1398, ante, § 701.

§ 4475. (R. S. § 2239.) Fees of register and receiver for consolidated land-offices.

 The register for any consolidated land-district, in addition to the fees now allowed by law, shall be entitled to charge and receive for making transcripts for individuals, or furnishing any other information respecting public lands or land-titles in his consolidated land-district, such fees as are properly authorized by the tariff existing in the local courts of his district; and the receiver shall receive his equal share of such fees, and it shall be his duty to aid the register in the preparation of the transcripts, or giving the desired record information.

 Act Feb. 18, 1861, c. 38, §§ 1, 3, 12 Stat. 131.

 Provisions for consolidation, etc., of land-districts, are contained in Chapter 8 of this Title.

(1834)
§ 4476. (R. S. § 2240.) Maximum compensation for registers and receivers.

The compensation of registers and receivers, including salary, fees, and commissions, shall in no case exceed in the aggregate three thousand dollars a year, each; and no register or receiver shall receive for any one quarter or fractional quarter more than a pro-rata allowance of such maximum.


The fees allowed registers and receivers for testimony reduced by them to writing for claimants in establishing pre-emption and homestead rights and mineral entries in contested cases (see R. S. § 2238, ante, § 4473, subds. 10, 11) were to be excluded in determining the maximum compensation of said officers, by Act March 3, 1883, c. 101, § 1, 22 Stat. 454. This section was superseded by a provision of Act March 3, 1887, c. 362, post, § 4479. By section 2 of said act of 1883, post, § 4478, the registers and receivers were required, upon application, to furnish plats or diagrams of townships in their respective districts, showing what lands are vacant and what lands are taken, the fees for which are to be fixed by the Commissioner of the General Land Office. They were also required to furnish, upon application by the proper State or Territory or officers, for the purposes of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, for which they are allowed to receive not to exceed 10 cents per entry. The fees to which they are thus entitled were not to be considered in determining their maximum compensation. So much of this section as allowed the registers and receivers to retain said fees was also superseded by said provision of Act March 3, 1887, § 362, post, § 4479.

The register was also allowed a fee of one dollar for giving, to one who had contested and procured the cancellation of a pre-emption, homestead, or timber-culture entry, a notice of the cancellation of the entry, which fee was not to be reported, by Act May 14, 1880, c. 89, § 2, as amended by Act July 26, 1892, c. 251, post, § 4537. The provision of that act that the fees were not to be reported was superseded by the requirement that such fees be reported and accounted for by Act March 4, 1911, c. 261, § 2, post, § 4480. The clerks and marshals of the district courts at Nome and Fairbanks, in Alaska, respectively ex-officio registers and receivers of the land offices located at Nome and Fairbanks, were allowed, in addition to their compensation as clerks or marshals, to receive all the fees and commissions allowed by law for their services as registers and receivers, but required to pay all such fees in excess of $1,500 by either of such officials into the Treasury of the United States, by Act March 2, 1907, c. 2037, § 3, post, § 4521.

§ 4477. (R. S. § 2241.) Excess of compensation to be paid in Treasury.

Whenever the amount of compensation received at any land-office exceeds the maximum allowed by law to any register or receiver, the excess shall be paid into the Treasury, as other public moneys.


See note to R. S. § 2240, ante, § 4476.

§ 4478. (Act March 3, 1883, c. 101, § 2.) Plats of townships and lists of lands sold to be furnished; compensation therefor.

Registers and receivers shall, upon application, furnish plats or diagrams of townships in their respective districts showing what lands are vacant and what lands are taken, and the fees for which are to be fixed by the Commissioner of the General Land Office. They were also required to furnish, upon application by the proper State or Territory or officers, for the purposes of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, for which they are allowed to receive not to exceed 10 cents per entry. The fees to which they are thus entitled were not to be considered in determining their maximum compensation. So much of this section as allowed the registers and receivers to retain said fees was also superseded by said provision of Act March 3, 1887, § 362, post, § 4479.

The register was also allowed a fee of one dollar for giving, to one who had contested and procured the cancellation of a pre-emption, homestead, or timber-culture entry, a notice of the cancellation of the entry, which fee was not to be reported, by Act May 14, 1880, c. 89, § 2, as amended by Act July 26, 1892, c. 251, post, § 4537. The provision of that act that the fees were not to be reported was superseded by the requirement that such fees be reported and accounted for by Act March 4, 1911, c. 261, § 2, post, § 4480. The clerks and marshals of the district courts at Nome and Fairbanks, in Alaska, respectively ex-officio registers and receivers of the land offices located at Nome and Fairbanks, were allowed, in addition to their compensation as clerks or marshals, to receive all the fees and commissions allowed by law for their services as registers and receivers, but required to pay all such fees in excess of $1,500 by either of such officials into the Treasury of the United States, by Act March 2, 1907, c. 2037, § 3, post, § 4521.
lands are vacant and what lands are taken, and shall be allowed to receive compensation therefor from the party obtaining said plat or diagram at such rates as may be prescribed by the Commissioner of the General Land Office and said officers shall, upon application by the proper State or Territorial authorities, furnish, for the purpose of taxation, a list of all lands sold in their respective districts, together with the names of the purchasers, and shall be allowed to receive compensation for the same not to exceed ten cents per entry. (22 Stat. 484.)

These provisions were part of section 2 of an act entitled "An act in relation to certain fees allowed registers and receivers," cited above.

The remaining portion of this section, omitted here, provided that the sums received for plats and lists should not be considered in determining the maximum of compensation of registers and receivers. It was superseded by a provision of Act March 3, 1887, c. 362, post, § 4479. See note to R. S. § 2340, ante, § 4476.

Section 1 of this act provided that fees of registers and receivers for taking testimony should not be considered in determining the maximum of their compensation. It also was superseded by the provision of Act March 3, 1887, c. 362, post, § 4479. See, also, note to R. S. § 2240, ante, § 4476.

§ 4479. (Act March 3, 1887, c. 362.) Excess of fees to be covered into Treasury.

Hereafter all fees collected by registers or receivers, from any source whatever, which would increase their salaries beyond three thousand dollars each a year, shall be covered into the Treasury, except only so much as may be necessary to pay the actual cost of clerical services employed exclusively in contested cases; and they shall make report quarterly, under oath, of all expenditures for such clerical services, with vouchers therefor. (24 Stat. 526.)

This was a provision of the sundry civil appropriation act for the fiscal year 1888, cited above. It superseded Act March 3, 1883, c. 101, § 1, and part of section 2 of that act, ante, § 4478. See notes to R. S. § 2240, ante, § 4476, and said Act March 3, 1883, c. 101, § 2, ante, § 4478.

This section also superseded the provision of Act May 14, 1889, c. 89, § 2, 21 Stat. 141, that the register need not report fees for notices to contestants of the cancellation of entries, but that provision was re-enacted by Act July 26, 1892, c. 251, amending the former section 2 of Act May 24, 1880, cited above, so as to make it read as set forth post, § 4537. The provision was again superseded by Act March 4, 1911, c. 261, § 2, post, § 4490, which required those fees to be covered into the Treasury.

§ 4480. (Act March 4, 1911, c. 261, § 2.) Fees for notices of cancellation of entries hereafter received to be accounted for.

Hereafter all money or fees received or collected by registers of United States land offices for issuing notices of cancellation of entries shall be reported and accounted for by such registers in the same manner as other fees or moneys received or collected. (36 Stat. 1352.)

This section was part of an act entitled "An act for the relief of registers and former registers of the United States land offices," cited above.

The first section of the act authorized and directed the Secretary of the Treasury to refund to registers and former registers of United States land offices money earned by them for issuing notices of cancellation of entries subsequent to July 26, 1892, which money they were erroneously required (1836)
THE PUBLIC LANDS

§ 4483

to deposit in the United States Treasury, contrary to the provisions of the act approved July 26, 1892. The section is omitted, as temporary merely.

Act July 26, 1892, c. 251, amended Act May 24, 1880, c. 89, § 2, so as to make it read as set forth post, § 4537. Act May 24, 1880, c. 89, § 2, as originally enacted, provided, in the same terms as the amended section, that the register need not report the fees for giving to contestants notice of the cancellation of entries. This provision was superseded by Act March 3, 1887, c. 362, ante, § 4479, but was re-enacted by the amending act of July 26, 1892, c. 251, post, § 4537. It was again superseded by this section.

See, also, notes to R. S. § 2240, ante, § 4476, and to Act March 3, 1887, c. 362, ante, § 4479.

Appropriations for contingent expenses of land offices, including clerk hire, rent, and incidental expenses, are made in the annual sundry civil appropriation acts. The provisions for the fiscal year 1914 were by Act June 23, 1913, c. 8, § 1, 38 Stat. 45.

Such appropriations for recent years are accompanied by a restriction on incurring expenses chargeable to the Government, which in said Act June 23, 1913, c. 8, § 1, was as follows:

"No expenses chargeable to the Government shall be incurred by registers and receivers in the conduct of local land offices except upon previous specific authorization by the Commissioner of the General Land Office."

§ 4481. (Act March 2, 1907, c. 2563.) Reimbursement of sums disbursed by receivers as special disbursing agents.

The Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of any unexpended balances of appropriations for contingent expenses of land offices, for the expenses of hearings in land entries and the expenses of depositing public moneys, such sums as may have been or may hereafter be disbursed by receivers of public moneys, acting as special disbursing agents at United States land offices, before the receipt of Government funds: Provided, That no payment shall be made under this Act in excess of the amount appropriated by the Congress for the particular purpose in each instance and for the fiscal year in which such disbursements were made: Provided, That all such disbursements shall have been or shall hereafter be made in pursuance of law in carrying out departmental regulations or to meet authorizations by the Commissioner of the General Land Office: Provided further, That the accounts containing such items shall have been duly approved by the Commissioner of the General Land Office. (34 Stat. 1245.)

This was an act entitled "An act authorizing and directing the Secretary of the Treasury, in certain contingencies, to refund to receivers of public moneys acting as special disbursing agents amounts paid by them out of their private funds."

§ 4482. (R. S. § 2242.) Illegal fees; penalty.

No register or receiver shall receive any compensation out of the Treasury for past services who has charged or received illegal fees; and, on satisfactory proof that either of such officers has charged or received fees or other rewards not authorized by law, he shall be forthwith removed from office.

Act March 22, 1852, c. 19, § 3, 10 Stat. 4. Act July 17, 1854, c. 84, § 6, 10 Stat. 306.

§ 4483. (R. S. § 2243.) Compensation of registers and receivers, when to commence.

The compensation of registers and receivers, both for salary and

(1837)
§ 4483 THE PUBLIC LANDS (Tit. 32)

commissions, shall commence and be calculated from the time they, respectively, enter on the discharge of their duties.

Act Feb. 24, 1855, c. 124, § 8, 10 Stat. 615.

§ 4484. (R. S. § 2244.) Duration of office of registers and receivers. All registers and receivers shall be appointed for the term of four years, but shall be removable at pleasure.

Act May 15, 1820, c. 102, § 1, 3 Stat. 582.

§ 4485. (R. S. § 2245.) Monthly and quarterly returns of receivers. The receivers shall make to the Secretary of the Treasury monthly returns of the moneys received in their several offices, and pay over such money pursuant to his instructions. And they shall also make to the Commissioner of the General Land-Office like monthly returns, and transmit to him quarterly accounts-current of the debits and credits of their several offices with the United States.


Receivers were authorized to deposit to the credit of the Treasurer of the United States unearned fees and unofficial moneys carried on the books of their offices for five years or more, and moneys deposited by unknown parties, and repayment of such moneys was provided for, by Act March 2, 1807, c. 2562, post. §§ 4487-4490.

The repayment of purchase moneys, etc., paid under the land laws on applications afterward rejected, and of excess payments under the land laws, was provided for by Act March 28, 1908, c. 102, post, §§ 4491-4493.

§ 4486. (Act March 2, 1895, c. 177, § 3.) Reports and returns by registers and receivers, not to be duplicated.

The duplication of reports and returns of registers and receivers to the General Land Office shall be prevented by such regulations as the Commissioner of the General Land Office, with the approval of the Secretary of the Interior, may make. (28 Stat. 807.)

Other provisions of this section relating to the engrossing and recording of patents are set forth ante, § 707.

§ 4487. (Act March 2, 1907, c. 2562, § 1.) Deposit in Treasury by receivers of unearned fees and unofficial moneys carried on their books for five years or more.

The receivers of public moneys for land districts are hereby authorized, under the direction of the Commissioner of the General Land Office, to deposit to the credit of the Treasurer of the United States all unearned fees and unofficial moneys that have been carried upon the books of their respective offices for a period of five years or more, which sums shall be covered into the Treasury by warrant and carried to the credit of the parties from whom such fees or moneys were received, and into an appropriation account to be denominated “Outstanding liabilities.” (34 Stat. 1245.)

This section and the three sections next following were an act entitled “An act to authorize the receivers of public moneys for land districts to deposit with the treasurer of the United States certain sums embraced in their accounts of unearned fees and unofficial moneys.”

§ 4488. (Act March 2, 1907, c. 2562, § 2.) Lists to be furnished with deposits.

At the time of making such deposit the receiver shall furnish a list showing the date when the money was paid to him or to (1838)
his predecessor; the names and residences of the parties; the purposes of the payments and the amounts thereof, which list shall bear the certificate of the register and receiver that the same is correct; that the amounts are due and payable; that diligence has been exercised to return the same, and that the sums specified have remained unclaimed for a period of five years or more. (34 Stat. 1245.)

§ 4489. (Act March 2, 1907, c. 2562, § 3.) Deposit of moneys deposited by unknown parties.

Amounts that appear in a receiver's accounts as "Moneys deposited by unknown parties" shall also be deposited to the credit of the Treasurer of the United States, accompanied by a list showing the amount and, if possible, the date of the receipt of each item; which list shall bear the certificate of the register and receiver that, after careful investigation, the ownership of said moneys could not be determined, and that they have been reported in the unearned fees and unofficial moneys accounts for five years or more. (34 Stat. 1245.)

§ 4490. (Act March 2, 1907, c. 2562, § 4.) Repayment of moneys deposited in Treasury; limitation; payment by homestead entryman on making cash entry.

Any person or persons who shall have made payment to a receiver, or to his predecessor, and the money shall have been covered into the Treasury pursuant to section one or section three hereof, shall, on presenting satisfactory evidence of such payment to the proper officer of the Treasury Department, be entitled to have the same returned by the settlement of an account and the issuing of a warrant in his favor according to the practice in other cases of authorized and liquidated claims against the United States: Provided, That when such moneys shall remain unclaimed in the Treasury for more than five years the right to recover the same shall be barred: Provided, That no homestead entryman shall be required to make payment of the purchase money on any application to make a cash entry until the same shall have been approved by the register and receiver, but such payment shall be made within ten days after notice of such approval. (34 Stat. 1245.)

§ 4491. (Act March 26, 1908, c. 102, § 1.) Repayment of purchase moneys, etc., paid under applications, etc., afterward rejected.

Where purchase moneys and commissions paid under any public land law have been or shall hereafter be covered into the Treasury of the United States under any application to make any filing, location, selection, entry, or proof, such purchase moneys and commissions shall be repaid to the person who made such application, entry, or proof, or to his legal representatives, in all cases where such application, entry, or proof has been or shall hereafter be rejected, and neither such applicant nor his legal representatives shall have been guilty of any fraud or attempted fraud in connection with such application. (35 Stat. 48.)

This section and the two sections next following were an act entitled "An act to provide for the repayment of certain commissions, excess payments, and purchase moneys paid under the public laws." (1839)
§ 4492. (Act March 26, 1908, c. 102, § 2.) Repayment of excess payments.

In all cases where it shall appear to the satisfaction of the Secretary of the Interior that any person has heretofore or shall hereafter make any payments to the United States under the public land laws in excess of the amount he was lawfully required to pay under such laws, such excess shall be repaid to such person or to his legal representatives. (35 Stat. 48.)

A provision for repayment to homestead entr ymen of excess payments was made by Act March 2, 1907, c. 2568, post, § 4542.

§ 4493. (Act March 26, 1908, c. 102, § 3.) Certification of amount of excess moneys, purchase moneys, etc., and repayment.

When the Commissioner of the General Land Office shall ascertain the amount of any excess moneys, purchase moneys, or commissions in any case where repayment is authorized by this statute, the Secretary of the Interior shall at once certify such amounts to the Secretary of the Treasury, who is hereby authorized and directed to make repayment of all amounts so certified out of any moneys not otherwise appropriated and issue his warrant in settlement thereof. (35 Stat. 48.)

§ 4494. (R. S. § 2246.) Oaths administered by registers and receivers.

The register or receiver is authorized, and it shall be their duty, to administer any oath required by law or the instructions of the General Land-Office, in connection with the entry or purchase of any tract of the public lands; but he shall not charge or receive, directly or indirectly, any compensation for administering such oath. Act June 12, 1840, c. 35, § 384.

The compulsory attendance of witnesses before registers and receivers in all matters requiring a hearing before them, and the taking of testimony and of depositions for such hearings, were provided for by Act Jan. 31, 1903, c. 844, post, §§ 4490-4503.

§ 4495. (R. S. § 2247.) Penalty for false information by register.

If any person applies to any register to enter any land whatever, and the register knowingly and falsely informs the person so applying that the same has already been entered, and refuses to permit the person so applying to enter the same, such register shall be liable therefor to the person so applying, for five dollars for each acre of land which the person so applying offered to enter, to be recovered by action of debt in any court of record having jurisdiction of the amount.


§ 4496. (Act Oct. 1, 1890, c. 1269, § 2.) Vacancy in office of register or receiver; taking final proofs.

Hereafter, when a vacancy shall occur in any of the land offices of the United States by reason of the death, resignation, or removal of either the register or receiver, and the time set for taking final proof falls within the vacancy thus caused, the remaining officer may proceed to take said final proofs, in the absence of any contest or protest, reduce the same to writing, and place it on file (1840)
in the office to be considered and passed upon when the vacancy is filled. (26 Stat. 657.)

This section was part of an act entitled "An act for the relief of certain settlers on the public lands of the United States and to authorize the taking and filing of final proofs in certain cases," cited above.

Section 1 of the act, relating to pending causes, is omitted, as temporary merely.

§ 4497. (Act Jan. 11, 1894, c. 10, § 1.) Disqualification of register or receiver.

No register or receiver shall receive evidence in, hear or determine any cause pending in any district land office in which cause he is interested directly or indirectly, or has been of counsel, or where he is related to any of the parties in interest by consanguinity or affinity within the fourth degree, computing by the rules adopted by the common law. (28 Stat. 26.)

This section and the section next following were an act entitled "An act relating to the disqualification of registers and receivers of United States land offices, and making provision in case of such disqualification."

§ 4498. (Act Jan. 11, 1894, c. 10, § 2.) Designation of officer to act in place of disqualified register or receiver.

It shall be the duty of every register or receiver so disqualified to report the fact of his disqualification to the Commissioner of the General Land Office, as soon as he shall ascertain it, and before the hearing of such cause, who thereupon, with the approval of the Secretary of the Interior, shall designate some other register, receiver, or special agent of the Land Department to act in the place of the disqualified officer, and the same authority is conferred on the officer so designated which such register or receiver would otherwise have possessed to act in such case. (28 Stat. 26.)

§ 4499. (Act Jan. 31, 1903, c. 344, § 1.) Subpoenas for attendance of witnesses before registers and receivers.

Registers and receivers of the land office, or either of them, in all matters requiring a hearing before them, are authorized and empowered to issue subpoenas directing the attendance of witnesses, which subpoenas may be served by any person by delivering a true copy thereof to such witness, and when served, witnesses shall be required to attend in obedience thereto: Provided, That if any subpoena be served under the provisions of this Act by any person other than an officer authorized by the laws of the United States, or of the State or Territory in which the depositions are taken, the service thereof shall be proved by the affidavit of the person serving the same: Provided further, That said subpoenas shall be served within the county in which attendance is required, and at least five days before attendance is required. (32 Stat. 790.)

This section and the four sections next following were an act entitled "An act providing for the compulsory attendance of witnesses before registers and receivers of the land office."

Authority to administer oaths was given to registers and receivers by R. S. § 2246, ante, § 4494.

Subpoenas for taking depositions of witnesses residing outside the county were provided for by section 4 of this act, post, § 4502.

COMP. ST. '13—116 (1841)
§ 4500. (Act Jan. 31, 1903, c. 344, § 2.) Witnesses' fees.

Witnesses shall have the right to receive their fee for one day's attendance and mileage in advance. The fees and mileage of witnesses shall be the same as that provided by law in the district courts of the United States in the district in which such land office are situated; and the witness shall be entitled to receive his fee for attendance in advance from day to day during the hearing. (32 Stat. 790.)

Witnesses' fees in the courts of the United States were prescribed by R. S. § 848, and subsequent provisions, ante, §§ 1452-1456.

§ 4501. (Act Jan. 31, 1903, c. 344, § 3.) Disobedience to subpoena, punishable.

Any person willfully neglecting or refusing obedience to such subpoena, or neglecting or refusing to appear and testify when subpoenaed, his fees having been paid if demanded, shall be deemed guilty of a misdemeanor, for which he shall be punished by indictment in the district court of the United States or in the district courts of the Territories exercising the jurisdiction of circuit or district courts of the United States. The punishment for such offense, upon conviction, shall be a fine of not more than two hundred dollars, or imprisonment not to exceed ninety days, or both, at the discretion of the court: Provided, That if such witness has been prevented from obeying such subpoena without fault upon his part he shall not be punished under the provisions of this Act. (32 Stat. 790.)

Witnesses under subpoenas for taking depositions are subject to the same penalties, by the provisions of the next following section of this act, post, § 4502.

§ 4502. (Act Jan. 31, 1903, c. 344, § 4.) Depositions of witnesses residing outside the county.

Whenever the witness resides outside the county in which the hearing occurs any party to the proceeding may take the testimony of such witness in the county of such witness's residence in the form of depositions by giving ten days' written notice of the time and place of taking such depositions to the opposite party or parties. The depositions may be taken before any United States commissioner, notary public, judge or clerk of a court of record. Subpoenas for witnesses before the officer taking depositions may issue from the office of the register or receiver, or may be issued by the officer taking the depositions, and disobedience thereof, as defined in this Act, shall also be punished; and the witness shall receive the same fees and mileage and be subject to the same penalties in all respects as in case of violation of a subpoena to appear before the register or receiver, and subject to the same limitations. The fees of the officer taking the depositions shall be the same as those allowed in the State or Territorial courts, and shall be paid by the party taking the deposition, and an itemized account of the fees shall be made by the officer taking the depositions and attached to the depositions. (32 Stat. 790.)

Penalties in case of violation of a subpoena to appear before the register or receiver, mentioned in this section, were imposed by the preceding section of this act, ante, § 4501.

(1842)
§ 4504. (Act Jan. 31, 1903, c. 344, § 5.) Continuing taking of depositions in behalf of opposite party.

Whenever the taking of any depositions taken in pursuance of the foregoing provisions of this Act is concluded the opposite party may proceed at once at his own expense to take depositions in his own behalf, at the same time and place and before the same officer: Provided, That he shall, before taking of the depositions in the first instance is entered upon, give notice to the opposing party, or any agent or attorney representing him in the taking of said depositions, of his intention to do so. (32 Stat. 791.)

CHAPTER THREE

Land-Districts—Provisions Respecting Particular Districts

Sec. 4504. When land-office may be discontinued by Secretary of the Interior.

4506. When land-office may be continued by Secretary of the Interior.

4508. When land-offices may be consolidated by Secretary of the Interior.

4507. When land-office may be annexed to adjacent district by the President.

4509. Change of location of land-office by the President.

4510. Discontinuance of land-office by the President.

4511. Change of boundaries of land-districts by the President.

4512. Business of original district in case of change of boundaries.

4513. Allowance of office-rent and clerk hire for consolidated land-offices.

§ 4504. (R. S. § 2248.) When land-office may be discontinued by Secretary of the Interior.

Whenever the quantity of public land remaining unsold in any land-district is reduced to a number of acres less than one hundred thousand, it shall be the duty of the Secretary of the Interior to discontinue the land-office of such district; and if any land in any such district remains unsold at the time of the discontinuance of a land-office, the same shall be subject to sale at some one of the existing land-offices most convenient to the district in which the land-office has been discontinued, of which the Secretary of the Interior shall give notice.

Act June 12, 1840, c. 36, § 2, 5 Stat. 385.

(1843)
§ 4505. (R. S. § 2249.) When land-office may be continued by Secretary of the Interior.

The Secretary of the Interior may continue any land-district in which is situated the seat of government of any one of the States, and may continue the land-office in such district, notwithstanding the quantity of land unsold in such district may not amount to one hundred thousand acres, when, in his opinion, such continuance is required by public convenience, or in order to close the land-system in such State.


§ 4506. (Act Aug. 5, 1892, c. 380, § 1.) When land-offices may be consolidated by Secretary of the Interior.

It shall be the duty of the Secretary of the Interior to consolidate the district land offices where practicable and consistent with the public interests. (27 Stat. 368.)

This was a provision of the sundry civil appropriation act for the fiscal year 1893, cited above.

The Secretary of the Interior was required to consolidate the district land-offices so as to bring the total compensation of the registers and receivers for the fiscal year 1894, within the appropriation made therefor by the sundry civil appropriation act for that year, Act March 3, 1893, c. 208, 27 Stat. 591, which was fixed at $520,000.

§ 4507. (R. S. § 2250.) When land-office may be annexed to adjacent district by the President.

Whenever the cost of collecting the revenue from the sales of the public lands in any land-district is as much as one-third of the whole amount of revenue collected in such district, it may be lawful for the President, if, in his opinion, not incompatible with the public interest, to discontinue the land-office in such district, and to annex the same to some other adjoining land-district.

Act March 3, 1853, c. 97, § 1, 10 Stat. 189, 194.

§ 4508. (R. S. § 2251.) Change of location of land-office by the President.

The President is authorized to change the location of the land-offices in the several land-districts established by law, and to re-establish the same from time to time at such point in the district as he deems expedient.

Act March 3, 1853, c. 97, § 1, 10 Stat. 204. Act March 3, 1853, c. 144, 10 Stat. 244.

§ 4509. (R. S. § 2252.) Discontinuance of land-office by the President.

Upon the recommendation of the Commissioner of the General Land-Office, approved by the Secretary of the Interior, the President may order the discontinuance of any land-office and the transfer of any of its business and archives to any other land-office within the same State or Territory.


§ 4510. (R. S. § 2253.) Change of boundaries of land-districts by the President.

The President is authorized to change and re-establish the boundary (1844)
aries of land-districts whenever, in his opinion, the public interests will be subserved thereby, without authority to increase the number of land-offices or land-districts.

Act June 29, 1870, c. 171, 16 Stat. 171.
The President was authorized to establish additional land-districts when necessary in executing the provisions of chapter 6 of this Title, which relate to mineral lands, etc., by R. S. § 2343, post, § 4651.

§ 4511. (R. S. § 2254.) Business of original district in case of change of boundaries.

In case of the division of existing land-districts by the erection of new ones, or by a change of boundaries by the President, all business in such original districts shall be entertained and transacted without prejudice or change, until the offices in the new districts are duly opened by public announcement under the direction of the Secretary of the Interior. All sales or disposals of the public lands heretofore regularly made at any land-office, after such lands have been made part of another district by any act of Congress, or by any act of the President, are confirmed, provided the same are free from conflict with prior valid rights.


§ 4512. (R. S. § 2255.) Allowance of office-rent and clerk-hire for consolidated land-offices.

The Secretary of the Interior is authorized to make a reasonable allowance for office-rent for each consolidated land-office; and when satisfied of the necessity therefor, to approve the employment by the register of one or more clerks, at a reasonable per-diem compensation, for such time as such clerical force is absolutely required to keep up the current public business, which clerical force shall be paid out of the surplus fees authorized to be charged by section twenty-two hundred and thirty-nine, if any, and if no surplus exists, then out of the appropriation for incidental expenses of district land-offices; but no clerk shall be so paid unless his employment has been first sanctioned by the Secretary of the Interior.


§ 4513. (Act June 19, 1878, c. 329, § 1.) Entry of public lands in States where no land-offices exist.

Public lands situated in States in which there are no land offices may be entered at the General Land Office, subject to the provisions of law touching the entry of public lands; and that the necessary proofs and affidavits required in such cases may be made before some officer competent to administer oaths, whose official character shall be duly certified by the clerk of a court of record. And moneys received by the Commissioner of the General Land Office for lands entered by cash entry shall be covered into the Treasury. (20 Stat. 201.)

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1878, cited above.

This provision was repeated from the similar appropriation act for the preceding year, Act March 3, 1877, c. 102, § 1, 19 Stat. 315.

(1845)
PROVISIONS RESPECTING PARTICULAR DISTRICTS

(R. S. § 2256. Superseded.)

This section prescribed the boundaries of the 96 land-districts as they existed at the time of the enactment of the Revised Statutes. It also designated the places at which the land-offices were located at that time. By virtue of the provisions of R. S. §§ 2248-2255, ante, §§ 4504-4512, the President and the Secretary of the Interior were authorized, under certain circumstances, to discontinue, consolidate, annex, or change the boundaries of the various land-districts; and the President was further authorized to change the location of the land-offices in the several districts, and to relocate the same from time to time at places in the districts deemed by him expedient.

In pursuance of these sections and the provisions of various subsequent acts, the boundaries of the land-districts and the locations of the land-offices have been changed from time to time. In some states land-districts and land-offices have been abolished or discontinued altogether; in others the number of districts has been reduced by consolidation, annexation, or discontinuance; in others the number has been increased by the creation of new districts. Where this has occurred the boundaries as established by this section have necessarily been changed. In a few states only no changes have been made. The provisions of this section being no longer applicable to the present status, it is accordingly omitted. The Acts of Congress establishing new districts subject to change in the same manner are also omitted, for the same reason. They are, however, noted below. The districts as they now exist are merely enumerated, and the location of the land-offices therein given, without attempting to set forth their boundaries.

The land-districts in Ohio, Indiana, and Illinois, established by this section, were abolished by a provision of Act July 31, 1876, c. 246, § 1, post, § 4515. The office of recorder of land titles of the state of Missouri was also abolished by the same provision.

The land-office at Des Moines, Iowa, was abolished, after February 23, 1910, by Act Feb. 15, 1910, c. 28, post, § 4516.

The acts creating, or authorizing the creation of, new land-districts were as follows:

- **Nevada**: Act Oct. 8, 1913, c. 19, 38 Stat. 203.
- **South Dakota**: Act May 26, 1890, c. 220, § 13, 35 Stat. 468; Act Feb. 6, 1909, c. 77, 35 Stat. 597.
- **Utah**: Act April 25, 1876, c. 78, 19 Stat. 38; Act March 3, 1905, c. 1150, 33 Stat. 1014.

(1846)
THE PUBLIC LANDS


Wisconsin: Act Aug. 9, 1876, c. 256, 19 Stat. 126; Act March 3, 1887, c. 362, § 1, 24 Stat. 509; Act April 23, 1890, c. 163, 26 Stat. 61.


The President was authorized to create not to exceed two land-districts in the Indian Territory whenever he deemed it necessary, by Act March 2, 1899, c. 412, § 15, 25 Stat. 1004.

Nearly all of the acts creating, or authorizing the creation of, new districts contained provisions authorizing the appointment of a register and receiver for each of the districts so created, designating the location of the land-offices, and relating to the transfer of records, etc., from the old offices to the new. They also in many instances contained repetitions of one or more of sections 2248-2255 of the Revised Statutes, ante, §§ 4504-4512.

The President was authorized and empowered to establish or discontinue land-districts in Alaska by Act May 14, 1888, c. 239, § 12, post, § 4517.

The number of land-offices in Alaska was reduced to one by Act Feb. 14, 1902, c. 17, § 1, post, § 4518, but that section was superseded by the creation of the Nome and Fairbanks land-districts by Act March 2, 1907, c. 2537, § 1, post, § 4519.

The Government of the Philippine Islands was authorized to establish land-districts and to provide for the appointment of the necessary officers whenever they deem the same necessary for the public convenience, by Act July 1, 1902, c. 1398, § 52, ante, § 3862.

The existing land districts are as follows:

Alabama: Montgomery.
Alaska: Fairbanks, Juneau, Nome.
Arizona: Phoenix.
Arkansas: Camden, Harrison, Little Rock.
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.
Missouri: Springfield.
Montana: Billings, Bozeman, Glasgow, Great Falls, Havre, Helena, Kalispell, Lewistown, Miles City, Missoula.
Nebraska: Alliance, Broken Bow, Lincoln, North Platte, O'Neill, Valentine.
Nevada: Carson City, Elko.
New Mexico: Clayton, Fort Sumner, Las Cruces, Roswell, Santa Fé, Tucumcari.
North Dakota: Bismarck, Devils Lake, Dickinson, Minot, Williston.
Oklahoma: Guthrie, Woodward.
Utah: Salt Lake City, Vernal.
Wisconsin: Wausau.

(1847)
§ 4514. (Act June 6, 1874, c. 223, § 3.) Office of recorder of land titles in Missouri to be discontinued.

Whenever the Secretary of the Interior shall be of the opinion that the public interest no longer requires the continuance of the office of recorder of land titles in Missouri, he may close and discontinue the same; and all of the records, maps, plats, field-notes, books, papers, and everything else concerning, pertaining, or belonging to said office of recorder, shall be delivered to the State of Missouri: Provided, however, That said State shall provide for the reception and safe-keeping of said records, maps, plats, field-notes, books, papers, and everything else belonging to said office of recorder, as public records, and for the allowance of free access to the same by the authorities of the United States, for the purpose of taking extracts therefrom, or making copies thereof, without charge of any kind: And provided further, That when said office of recorder shall be closed and discontinued as aforesaid, the Commissioner of the General Land-Office shall forever thereafter possess and exercise all of the powers and authority and perform all the duties of said recorder. (18 Stat. 62.)

This section was part of act obviating the necessity of issuing patents for certain private land claims in the State of Missouri, etc., cited above.
Sections 1 and 2 of the act are set forth post. §§ 5009, 5100.

The office of recorder of land titles was abolished by a provision of Act July 31, 1876, c. 246, post, § 4515.

§ 4515. (Act July 31, 1876, c. 246.) Land-offices in Ohio, Indiana, and Illinois, and office of recorder of land titles in Missouri, abolished.

The land offices at Chillicothe, Ohio, Indianapolis, Indiana, Springfield, Illinois, and the office of recorder of land-titles of the State of Missouri, are hereby abolished, from and after the thirtieth day of September next and the Secretary of the Interior is hereby authorized to transfer to the States respectively aforesaid such of the transcripts, documents, and records of the offices aforesaid as may not be required for the use of the United States, and as the States respectively in which said offices are situated may desire to preserve. (19 Stat. 121.)

These were provisions of the sundry civil appropriation act for the fiscal year 1877, cited above.
See notes to R. S. § 2256, ante, under this subchapter, as to the land-office abolished by this provision.

§ 4516. (Act Feb. 15, 1910, c. 28.) Land-office at Des Moines, Iowa, abolished; disposition of records.

The land office at Des Moines, Iowa, shall be, and is hereby, abolished from and after the twenty-eighth day of February, nineteen hundred and ten; and the Secretary of the Interior is hereby authorized to transfer to the State of Iowa such of the transcripts, documents, and records of the office as are not required for the use of the United States and as the State may desire to preserve. (36 Stat. 193.)

This was an act entitled "An act to abolish the United States land-office at Des Moines, Iowa."
See note to R. S. § 2256, ante, under this subchapter, as to the land-office abolished by this act.

(1848)
§ 4517. (Act May 14, 1898, c. 299, § 12.) Land-districts and offices in Alaska; registers and receivers.

The President is authorized and empowered, in his discretion, by Executive order from time to time to establish or discontinue land districts in the District of Alaska, and to define, modify, or change the boundaries thereof, and designate or change the location of any land office therein; and he is also authorized and empowered to appoint, by and with the advice and consent of the Senate, a register for each land district he may establish and a receiver of public moneys therefor; and the register and receiver appointed for such district shall, during their respective terms of office, reside at the place designated for the land office. The registers and receivers of public moneys in the land districts of Alaska shall each receive an annual salary of one thousand five hundred dollars and the fees provided by law for like officers in the State of Oregon, not to exceed, including such salary and fees, a total annual compensation of three thousand dollars for each of said officers. (30 Stat. 414.)

This section was part of an act extending the homestead laws and providing for right of way for railroads in Alaska, cited above. This section superseded the previous provisions of Act May 17, 1884, c. 53, § 8, 23 Stat. 26, which created Alaska a land-district, and located a land-office therefor at Sitka, and of Act July 24, 1897, c. 14, § 4, 30 Stat. 215, which authorized the President to divide the Territory into two land-districts, and also authorized the appointment of a register and receiver for the additional district; the surveyor-general to serve in both districts.

The number of land-offices and land-districts in Alaska was reduced to one, the location to be fixed by the President, by a provision of Act Feb. 14, 1902, c. 17, § 1, post, § 4518; but two additional land-districts were established by Act March 2, 1907, c. 2537, post, §§ 4519-4522.

§ 4518. (Act Feb. 14, 1902, c. 17, § 1.) Land-districts and offices in Alaska.

On and after June first, nineteen hundred and two, the number of land offices and land districts in the district of Alaska is hereby reduced to one, the location of which shall be fixed by the President. (32 Stat. 20.)

This was a provision of the urgent deficiency appropriation act for the fiscal year 1902, cited above.

Two additional land districts in Alaska were established by Act March 2, 1907, c. 2537, post, §§ 4519-4522.

§ 4519. (Act March 2, 1907, c. 2537, § 1.) Additional land-districts in Alaska.

There are hereby created two additional land districts, the boundaries of which shall be designated by the President, in the [district] of Alaska, to be known as the Nome land district and the Fairbanks land district, with the land offices located, respectively, at Nome, Alaska, and Fairbanks, Alaska. (34 Stat. 1232.)

This section and the three sections next following were parts of an act entitled "An act to provide for the creation of additional land-districts in the District of Alaska."

Section 5 of the act provided that the act should be in force from and after July 1, 1907.

The word "district," inclosed in brackets in this section, was superseded by the organization of Alaska as a Territory, by Act Aug. 24, 1912, c. 387, ante, §§ 3528-3544.

(1849)
§ 4520. (Act March 2, 1907, c. 2537, § 2.) Additional land-districts in Alaska; clerks of courts to be registers, and marshals to be receivers.

The clerks of the district courts at Nome and Fairbanks shall respectively be ex-officio registers of the land offices at Nome and Fairbanks and the marshals of the said courts at Nome and Fairbanks shall be ex-officio receivers of public moneys for the Nome and Fairbanks land districts. Said officers shall perform the several duties of register of the land office and receiver of public moneys for the land districts with all the powers incident to such offices to the same extent as now performed by the register of the land office and the receiver of public moneys at Juneau, Alaska. (34 Stat. 1232.)

§ 4521. (Act March 2, 1907, c. 2537, § 3.) Fees and commissions as compensation of officers in additional districts.

The said officers shall, in addition to their present compensation as clerk or marshal as provided by law, receive all the fees and commissions allowed by law for their services as registers of land offices and receivers of public moneys for land districts under the land laws: Provided, That any fees or commissions in excess of one thousand five hundred dollars per annum received by either such officials shall be paid into the Treasury of the United States: Provided, That no other salary than aforesaid shall be paid such registers and receivers. (34 Stat. 1232.)

The fees and commissions of registers and receivers were prescribed by R. 8, § 2238, ante, § 4473, and other provisions referred to in the notes to that section.

§ 4522. (Act March 2, 1907, c. 2537, § 4.) Surveys in additional districts.

The surveyor-general of the district of Alaska, under the direction of the Secretary of the Interior, shall furnish the receivers of said land offices a sufficient quantity of numbers to be used in the different classes of official surveys that may be made in said Nome and Fairbanks land districts to meet the requirements thereof, and upon application by any person desiring to have an official survey made the receivers shall furnish a number or numbers for such survey or surveys, together with an order directing a qualified deputy surveyor to make the same, and such application, order, and the fee required to be paid to the surveyor-general in the district of Alaska shall be transmitted to the surveyor-general: Provided, That all surveys thus made shall be approved by the surveyor-general as at present. (34 Stat. 1232.)

(1850)
CHAPTER THREE A

Withdrawal from Settlement, Location, Sale, or Entry

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes the provisions of Act June 25, 1910, c. 421, authorizing the President to make withdrawals of public lands in certain cases, and subsequent amendatory and additional acts relating to the subject.

Sec. 4523. Withdrawal by President from settlement, location, etc., and reservation of lands for water-power sites; irrigation, etc.

Sec. 4524. Lands withdrawn open to exploration, discovery, etc., under mining laws applying to metaliferous minerals; rights of occupant or claimants of oil or gas bearing lands; previous homestead, etc., entries, etc., excepted; no forest reserves to be created, etc., within certain States, except by act of Congress.

Sec. 4526. Withdrawal from location, entry, etc., and reservation of lands within Indian reservations, for power or reservoir sites, irrigation, etc.; reports of reservations to Congress.

Sec. 4527. Exchange of private lands, over which Indian reservation is extended, for other lands.

Sec. 4528. Opening of lands restored by the President to entry after withdrawals.

Sec. 4529. Opening of lands restored by the Secretary of the Interior to entry after withdrawal.

§ 4523. (Act June 25, 1910, c. 421, § 1.) Withdrawal by President from settlement, location, etc., and reservation of lands for water-power sites; irrigation, etc.

The President may, at any time in his discretion, temporarily withdraw from settlement, location, sale, or entry any of the public lands of the United States including [the District of] Alaska and reserve the same for water-power sites, irrigation, classification of lands, or other public purposes to be specified in the orders of withdrawals, and such withdrawals or reservations shall remain in force until revoked by him or by an Act of Congress. (36 Stat. 847.)

The words "the District of," inclosed in brackets in this section, were superseded by the organization of Alaska as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3523-3544.

Provisions somewhat similar to those of this section, for reservation from location, etc., of lands within any Indian reservation, by the Secretary of the Interior, were made by Act June 25, 1910, c. 431, § 13, post, § 4526.

Provisions for withdrawal from entry of lands required for irrigation works and lands believed to be susceptible of irrigation from such works, and provisions for entry of lands to be irrigated, were made by Act June 17, 1902, c. 1003, §§ 3-5, post, §§ 4702-4704.

(1851)
§ 4524. (Act June 25, 1910, c. 421, § 2, as amended, Act Aug. 24, 1912, c. 369.) Lands withdrawn open to exploration, discovery, etc., under mining laws applying to metalliferous minerals; rights of occupants or claimants of oil or gas bearing lands; previous homestead, etc., entries, etc., excepted; no forest reserves to be created, etc., within certain States except by act of Congress.

All lands withdrawn under the provisions of this Act shall at all times be open to exploration, discovery, occupation, and purchase under the mining laws of the United States, so far as the same apply to metalliferous minerals: Provided, That the rights of any person who, at the date of any order of withdrawal heretofore or hereafter made, is a bona fide occupant or claimant of oil or gas bearing lands and who, at such date, is in the diligent prosecution of work leading to the discovery of oil or gas, shall not be affected or impaired by such order so long as such occupant or claimant shall continue in diligent prosecution of said work: Provided further, That this Act shall not be construed as a recognition, abridgment, or enlargement of any asserted rights or claims initiated upon any oil or gas bearing lands after any withdrawal of such lands made prior to June twenty-fifth, nineteen hundred and ten: And provided further, That there shall be excepted from the force and effect of any withdrawal made under the provisions of this Act all lands which are, on the date of such withdrawal, embraced in any lawful homestead or desert-land entry theretofore made, or upon which any valid settlement has been made and is at said date being maintained and perfected pursuant to law; but the terms of this proviso shall not continue to apply to any particular tract of land unless the entryman or settler shall continue to comply with the law under which the entry or settlement was made: And provided further, That hereafter no forest reserve shall be created, nor shall any additions be made to one heretofore created, within the limits of the States of California, Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by Act of Congress. (36 Stat. 847. 37 Stat. 497.)

The amendment of this section by Act Aug. 24, 1912, c. 369, cited above, consisted in the substitution of the words “metalliferous minerals,” where they occur in the first clause as it reads here, for the words “minerals other than coal, oil, gas, and phosphates,” of the section as originally enacted.

Provisions for entries under the homestead and desert land laws upon coal lands, and for their selection under the Carey Act, or their withdrawal under the Reclamation Act, reserving the coal to the United States, were made by Act June 22, 1910, c. 318, post, §§ 4606–4608, which was supplemented so as to allow the selection of such lands by the States, and their sale in isolated and disconnected tracts, by Act April 30, 1912, c. 99, post, § 4639.

Provisions for entries under the homestead and desert land laws of oil lands in the State of Utah, for their selection under the State under the Carey Act or grants by Congress, and for their withdrawal under the Reclamation Act, reserving the oil or gas to the United States, were contained in Act Aug. 24, 1912, c. 367, post, §§ 4638–4640.

Provisions for the selection of phosphate lands by the State of Idaho under indemnity and other land grants, reserving the phosphate and oil to the United States, were contained in Act Feb. 27, 1913, c. 56, post, §§ 4663–4665. (1852)
§ 4525. (Act June 25, 1910, c. 421, § 3.) Reports of withdrawals to Congress.

The Secretary of the Interior shall report all such withdrawals to Congress at the beginning of its next regular session after the date of the withdrawals. (36 Stat. 848.)

§ 4526. (Act June 25, 1910, c. 431, § 13.) Withdrawal from location, entry, etc., and reservation of lands within Indian reservations, for power or reservoir sites, irrigation, etc.; reports of reservations to Congress.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to reserve from location, entry, sale, allotment, or other appropriation any lands within any Indian reservation, valuable for power or reservoir sites, or which may be necessary for use in connection with any irrigation project hereafter to be authorized by Congress: Provided, That if no irrigation project shall be authorized prior to the opening of any Indian reservation containing such power or reservoir sites the Secretary of the Interior may, in his discretion, reserve such sites pending future legislation by Congress for their disposition, and he shall report to Congress all reservations made in conformity with this Act. (36 Stat. 858.)

This section was part of an act for determining the heirs of deceased Indians, for the disposition and sale of allotments of deceased Indians, etc., cited above.

§ 4527. (Act April 21, 1904, c. 1402, § 1.) Exchange of private lands, over which Indian reservation is extended, for other lands.

Any private land over which an Indian reservation has been extended by Executive order, may be exchanged at the discretion of the Secretary of the Interior and at the expense of the owner thereof and under such rules and regulations as may be prescribed by the Secretary of the Interior, for vacant, nonmineral, nontimbered, surveyed public lands of equal area and value and situated in the same State or Territory. (33 Stat. 211.)

This was a provision of the Indian appropriation act for the fiscal year 1906, cited above.

A previous similar provision for exchange of "any private lands occupied by actual settlers over which an Indian reservation has been or may be extended by Executive order," was contained in the similar act for the preceding year, Act March 3, 1903, c. 994, § 1, 32 Stat. 1000.

§ 4528. (Act Sept. 30, 1913, c. 15, § 1.) Opening of lands restored by the President to entry after withdrawals.

Hereafter when public lands are excluded from national forests or released from withdrawals the President may, whenever in his judgment it is proper or necessary, provide for the opening of the lands by settlement in advance of entry, by drawing, or by such other method as he may deem advisable in the interest of equal opportunity and good administration, and in doing so may provide that lands so opened shall be subject only to homestead entry by actual settlers only or to entry under the desert-land laws for a period not exceeding ninety (1863)
days, the unentered lands to be thereafter subject to disposition under the public-land laws applicable thereto. (38 Stat. 113.)

This section and the section next following were an act entitled "An act to authorize the President to provide a method for opening lands restored from reservation or withdrawal, and for other purposes."

§ 4529. (Act Sept. 30, 1913, c. 15, § 2.) Opening of lands restored by the Secretary of the Interior to entry after withdrawal.

Where under the law the Secretary of the Interior is authorized or directed to make restoration of lands previously withdrawn he may also restrict the restoration as prescribed in section one of this Act. (38 Stat. 114.)

CHAPTER FOUR

Pre-emptions

(R. S. §§ 2257–2274. Repealed.)

Sections 2257–2274, 2277–2285, and 2287 were expressly repealed by Act March 3, 1891, c. 561, § 4, 25 Stat. 1097, together with all other acts or parts of acts relating to the pre-emption of the public lands. Sections 2275, 2276, and 2286 were expressly excepted from the repeal. Section 2287 was not so excepted, but it was expressly amended by section 3 of said Act March 3, 1891, c. 561. All bona fide claims or rights under the pre-emption laws were saved and might be perfected under their provisions.

Section 2257 designated the lands of the United States subject to the right of pre-emption. Section 2258 enumerated the classes of lands not subject to the right of pre-emption. Section 2259 enumerated the persons entitled to pre-emption rights, and prescribed the number of acres to which each person was entitled upon payment to the United States of the minimum price. Section 2260 enumerated the classes of persons not entitled to pre-emption rights. Section 2261 provided that no person should be entitled to more than one pre-emptive right by virtue of section 2259, and that no person should, after having filed a declaration of intention to claim the benefits under said section, at any future time file a second declaration for another tract. Section 2262, as amended by Act June 9, 1880, c. 164, 21 Stat. 100, prescribed the oath to be taken by pre-emptionists, and made it the duty of the officer administering the oath to file a certificate thereof in the public land-office of the proper district, and to transmit a duplicate copy to the General Land-Office. Section 2263 required satisfactory proof of the settlement and improvement of the tract sought to be pre-empted, before any entries could be made under section 2259, and declared all assignments or transfers of any rights prior to the issuing of a patent null and void. Section 2264 provided that any person settling or improving a tract of land, subject at the time of settlement to private entry, with intent to purchase the same, should file with the register of the proper district a written statement describing the lands settled, and declaring an intention to claim the same; that pre-emptionists should, within twelve months from the date of settlement, make the proof, affidavit, and payment required by section 2262; and that a failure to make said proof, affidavit, and payment within the prescribed time should subject the land to entry by other purchasers. Section 2265 required all pre-emptionists for land not yet proclaimed for sale to make known their claims in writing within three months from the time of settlement, or forfeit their claims. Section 2266 required all pre-emptionists upon unsurveyed lands, open to settlement, to file a declaratory statement within three months from the date of the receipt at the proper district land-office of the approved plat of the township embracing the settlement. Section 2267 provided that all claimants of pre-emption rights under sections 2265 and 2266 should make the proper proofs and payments within thirty months after the dates prescribed by said sections, respectively, (1854)
THE PUBLIC LANDS

for filing the declaratory notices had expired. Act July 26, 1804, c. 104, § 2, 28 Stat. 123, extended the time one year in certain cases. Section 2268 provided that pre-emptors who had taken the initiatory steps required by law for actual settlement, and who were called away by reason of being engaged in the military or naval services of the United States, were to be granted an extension of time, within which the performance of the various acts required to perfect their claims might be made. Section 2269 provided that upon the death of any person entitled to claim benefits of the pre-emption laws, before consummating his claim, his executor or administrator might file the papers necessary, and that the entry should be in favor of the heirs of said deceased pre-emptor, and that the patent thereon should cause the title to inure to such heirs in the same manner as if their names had been specifically mentioned. Section 2270 provided that non-compliance with any requisition of the pre-emption laws within the appointed time, due to a vacancy in the office either of the register or receiver, or both, should not work to the detriment of any claimant, but that the requisition might be complied with within the same period after the vacancies had been filled. Section 2271 provided that the chapter should be construed so as not to confer on any one a right of pre-emption by reason of a settlement made on a tract already disposed of, when such disposal had not been confirmed by the General Land-Office. Section 2272 provided that no person who had filed a notice of intention to claim any tract of land by pre-emption should be barred from the right to purchase such tract by private entry after the expiration of his right to pre-emption. Section 2273 provided for the determination of conflicting claims of two or more persons settling on the same tract of land. Section 2274 provided that if, whenever two or more persons settled upon unsurveyed lands, it should be found after survey thereof that they had settled upon the same legal subdivision, such settlers might make a joint entry of their lands, or that one settler might perform the statutory requirements for all, after having contracted with the other settlers to convey to them their proper shares. Sections 2275 and 2276, as amended by Act Feb. 28, 1801, c. 384 remained in force. Section 2277 provided for the payment for pre-emption lands with military bounty land warrants. Section 2278 provided for the payment for pre-emption lands with agricultural college scrip. Section 2279 limited the number of acres along the line of railroads subject to pre-emption to 160 to each person. Section 2280 provided that settlers on land reserved on account of claims under French, Spanish, or other grants should be entitled to all previously granted pre-emption rights, upon said claims being declared invalid by the Supreme Court. Section 2281 provided that all persons settling on lands prior to their withdrawal for railroad grants should be entitled to pre-empt said lands on the payment of the ordinary minimum, provided they filed the notice and made the proof and payment required in other cases. Section 2282 provided that nothing in the chapter should delay the sale of any of the public lands beyond the time appointed by the proclamation of the President. Section 2283 provided the manner of the sale of the Osage Indian trust and diminished-reserve lands in Kansas. Section 2284 provided that the transfer by any settler of his claim prior to April 26, 1871, should not preclude him from the right to pre-empt another tract under the provisions of the chapter. Section 2285 provided that the restrictions contained in sections 2260 and 2261 should not apply to settlers on the Osage Indian trust and diminished-reserve lands in Kansas. Section 2286 remained in force. Section 2287 provided that any bona fide settler under the homestead or pre-emption laws, who had filed a proper application to enter lands, should not be deprived of his right to perfect his title therefor by reason of the fact that he had subsequent to the filing of his application, been appointed a register or receiver. Section 2288 remained in force.

Numerous acts relating to both pre-emption and homestead rights subsequent to the enactment of the Revised Statutes, and prior to the passage of Act March 3, 1891, c. 561, are omitted from this chapter, as repealed in so far as applicable to pre-emption entries. Such as remain in force and applicable to homestead rights are set forth under Chapter 5 of this Title.

All bona fide claims lawfully initiated before the passage of the repealing
THE PUBLIC LANDS

act, under any of the provisions of law so repealed, might be perfected upon
due compliance with law, in the same manner, upon the same terms and con-
ditions, and subject to the same limitations, forfeitures, and contests, as if
the act had not been passed, by a provision of section 4 of the act, Act March

(R. S. §§ 2275, 2276. Transferred to Chapter 10A.)
R. S. §§ 2275, 2276, provided for the selection by the States or Territories of
other sections for school purposes, where sections 6 or 16 in any township in
which those sections were granted for school purposes had been settled on
with a view to pre-emption or homestead, or where they were mineral land, or
within an Indian reservation, or where sections 6 and 16 in any township were
fractional or entirely wanting from any natural cause. They are set forth,
as amended by Act Feb. 28, 1891, c. 384, under Chapter 10A of this Title,
"Reservations and Grants to States for Public Purposes," post, §§ 4860, 4861.

(R. S. §§ 2277-2285. Repealed.)
See notes to R. S. §§ 2277-2274, ante, at the beginning of this Chapter.

(R. S. § 2286. Transferred to Chapter 10A.)
R. S. § 2286, granted to the several counties or parishes of the States and
Territories in which there were public lands the right to pre-empt one quar-
ter-section of land for the establishment of seats of justice therein. It is set
forth, under Chapter 10A of this Title, "Reservations and Grants to States
for Public Purposes," post, § 4866.

(R. S. § 2287. Repealed.)
See notes to R. S. §§ 2277-2274, ante, at the beginning of this Chapter.

(R. S. § 2288. Transferred to Chapter 5.)
R. S. § 2288, as amended by Act March 3, 1891, c. 561, § 3, gave to any
bona fide settler, under the pre-emption, homestead, or other settlement law,
the right to transfer any portion of his claim for church, cemetery, or school
purposes, or for the right of way of railroads, canals, reservoirs, or ditches.
It is set forth, as further amended by Act March 3, 1890, c. 1424, under
Chapter 5 of this Title, "Homesteads," post, § 4535.
See notes to R. S. §§ 2277-2274, ante, at the beginning of this Chapter.

CHAPTER FIVE

Homesteads

Sec. 4530. Who may enter certain unappropriated public lands.
4531. Mode of procedure.
4532. Certificate and patent, when given and issued; leaves of ab-

ance; proof upon commuta-
tion; proof required where en-
tryan dies; area of cultivation;
enlarged homesteads; Ne-
braska arid land entries; en-
tries under reclamation act;
election as to mode of making
proof.
4533. Failure to give notice of election as to mode of final proof not to
prejudice right of entryman to
proceed under former law.

(1856)

Sec. 4534. Right of settler on unsurveyed
land to elect as to law under
which to make final proof.
4535. Right of transfer of settlers un-
der homestead or pre-emption
laws for certain public pur-
poses.
4536. Relinquishment of claim; land
open to entry.
4537. Cancellation of claim; notice to
contestant; death of contest-
ant.
4538. Time for settler to file homestead
application and perfect entry:
mariage of homestead entry-
woman; preference rights to
settlers on enlarged homesteads.
Sec. on non-irrigable lands; time for entry on enlarged homesteads.
4539. Notice of intention to make final proof.
4540. Taking testimony for final proof in case of unavoidable delay.
4541. Notice of contest; publication.
4542. Repayment of excess required to be paid on final proof or commutation.
4543. When rights inure to the benefit of infant children.
4544. Insanity of settlers; proof and payment by persons authorized to act for them.
4546. Persons in military or naval service, when and before whom to make affidavit.
4546. Officers before whom affidavits, proofs, etc., may be made; false swearing deemed perjury and punishable; fees.
4547. United States court commissioners; appointment.
4548. Administration of oaths in preliminary affidavits and final proofs under land laws.
4549. Place of residence of court commissioner.
4550. Record of applications.
4551. Homestead lands not to be subject to prior debts.
4552. When lands entered for homestead revert to Government.
4553. Leave of absence where crops destroyed or seriously injured by grasshoppers.
4554. Leave of absence on destruction or failure of crops, sickness, or other unavoidable casualty.
4555. Time for payment extended.
4556. Homestead entry or desert-land entry after former entry lost, forfeited, or abandoned.
4557. Limitation of amount entered for homestead.
4558. Limitation of aggregate amount entered under any land laws.
4559. Lands entered under mineral land laws not included in amount limited.
4560. Additional entry after final proof on former entry of less than one quarter-section.
4561. Additional entry of land contiguous to former entry of less than one quarter section.
4562. Commutation of entries under this act not allowed.
4563. Enlarged homestead entries of non-mineral, non-irrigable, etc., lands, not containing merchantable timber, in certain states; lands to be designated as not irrigable.
4564. Applications for entry; affidavits; fees.
4565. Additional entry of land contiguous to former entry, not to exceed limitation.
4566. Proof of cultivation upon making final proofs; final proofs upon additional entries; extension of time for final proofs upon additional entries.
4567. Right to make homestead entries under Rev. St. § 2289, not affected by act; entries under act not to be commuted.
4568. Lands in Utah without supply of water for domestic use to be designated; requirements of residence and cultivation as to such lands.
4569. Enlarged homestead entries of non-mineral, non-irrigable lands, not containing merchantable timber in Idaho; lands to be designated as not irrigable.
4570. Applications for entry; affidavits; fees.
4571. Additional entry of land contiguous to former entry, not to exceed limitation.
4572. Proof of cultivation upon making final proofs; final proofs upon additional entries; extension of time for final proofs upon additional entries.
4573. Right to make homestead entries under Rev. St. § 2289, not affected by act; entries under act not to be commuted.
4574. Lands without supply of water for domestic use to be designated; requirements of residence and cultivation as to such lands; leaves of absence.
4575. Validation of certain entries, made in good faith upon enlarged homesteads, by persons who had theretofore acquired title under the homestead laws.
4576. Limitation of entries within certain boundaries in Nebraska extended; exclusion of irrigable lands from provisions of act.
4577. Additional entry of land contiguous to former entry, not to exceed in the aggregate the limitation as extended.

COMP. ST. '13—117

(1857)
§ 4530

THE PUBLIC LANDS

Sec. 4578. Fees and commissions on entries; commutation of entries not allowed; improvements to be shown on final proof; entries under this act by former homestead entrants.

4579. Benefits of Kinkaid Act extended to entries made within tract affected between April 28, 1904, and June 28, 1904.

4580. Benefits of military service extended to entries under the Kinkaid Act.

4581. Isolated tracts within limits affected by the Kinkaid Act to be sold; limitation of amount.

4582. Determination of qualifications of entrants making additional entries upon Nebraska arid lands.

4583. Additional entry after commutation of former entry.

4584. Additional entry after loss or forfeiture of former entry; purchasers of Flathead Indian lands.

4585. Entries within limits of railroad grants; extent; additional entries.

4586. Entries within limits of railroad grants; extent; additional entries.

4587. Entries within limits of railroad grants; patents for additional entries.

4588. What minors may have the privileges of this chapter.

4589. Payment before expiration of five years; rights of applicant.

4590. Commutation allowable after fourteen months.

4591. No distinction on account of race or color; mineral lands not subject to entry as homestead.

4592. Soldiers' and sailors' homestead.

4593. Deduction of military and naval service from time, etc.

4594. Persons who have entered less than 100 acres, rights of.

Sec. 4595. Soldiers' and sailors' entries canceled; repayment of fees.

4596. Homestead or other entries canceled or not confirmed; repayment of fees and purchase money.

4597. Appropriation.

4598. Rules by Commissioner of General Land Office; warrants for payments.

4599. Amendment of Act June 16, 1880, c. 244; proof of loyalty not to be required.

4600. Soldiers' additional entries invalid; commutation.

4601. Soldiers' additional homestead certificates; sale.

4602. Widows and minor children of persons entitled to homestead, etc.

4603. Actual service in the Army or Navy equivalent to residence, etc.

4604. Service of homestead settlers in Army or Navy in time of war equivalent to actual residence, etc.

4605. Who may enter by agent.

4606. Chiefs, etc., of Stockbridge Munese, homestead rights of.

4607. Exemption of homestead of Stockbridge Munese.

4608. Homestead laws extended over former Ute Indian Reservation in Colorado; certain entries prohibited.

4609. Reimbursement of Ute Indian fund.

4610. Lands on which the Government has improvements excepted from act.

4611. Indians abandoning tribal relations entitled to benefit of homestead laws.

4612. Indians located on public lands entitled to benefit of homestead laws; patents.

§ 4530. (R. S. § 2289, as amended, Act March 3, 1891, c. 561, § 5.)

Who may enter certain unappropriated public lands.

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.


This section, as originally enacted, was as follows:

"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, upon which such person may have filed a pre-emption claim, or which may, at the time the application is made, be subject to pre-emption at one dollar and twenty-five cents per acre; or eighty acres or less of such unappropriated lands, at two dollars and fifty cents per acre, to be located in a body, in conformity to the legal subdivisions of the public lands, and after the same have been surveyed. 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."

It was amended by Act March 3, 1891, c. 561, § 5, cited above, to read as set forth here: the part of the original section omitted in the amendment depending on the pre-emption laws, which were also repealed by section 4 of the same act, 26 Stat. 1097.

Homestead settlers who have entered less than 160 acres were allowed to enter additional lands by various provisions set forth post, §§ 4560-4567.

The amount of public land which any person may acquire by entry or settlement under any of the land laws was limited to 320 acres in the aggregate by a provision of Act Aug. 30, 1890, c. 837, § 1, post, § 4558.

Certain Indians are entitled to the benefits of the homestead laws, by R. S. §§ 2310, 2311, and subsequent provisions, post, §§ 4606-4612.

Chapter 4 of this Title, entitled "Pre-emptions," except sections 2275, 2276, 2286, and 2289, and all other laws allowing pre-emptions, were repealed by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See notes under said chapter, ante. Various acts, subsequent to the Revised Statutes and prior to Act March 3, 1891, c. 561, were in terms applicable to both pre-emption and homestead entries. These acts are inoperative as to pre-emptions, but so far as they remain in force and applicable to homesteads, are included under this chapter.

The provisions of the homestead laws were extended to Alaska, by Act May 14, 1868, c. 239, § 1, 30 Stat. 409, which was amended by Act March 3, 1903, c. 1002, post, § 5046.

Lands may be withdrawn from settlement, location, sale, or entry, and reserved for water-power sites, irrigation, classification, or other public purposes, by the President, by Act June 25, 1910, c. 421, ante, §§ 4523-4525.

Provisions somewhat similar, for reservation from location, etc., of lands within any Indian reservation, by the Secretary of the Interior, were made by Act June 25, 1910, c. 431, § 13, ante, § 4526.

Provisions for opening to homestead entry agricultural lands within forest reserves were made by Act June 11, 1906, c. 3074, § 1, post, § 5162.

Provisions for the reclassification of lands in Alabama to determine which are agricultural lands and which mineral lands, those designated as agricultural to be subject to homestead entry, were made by Act March 27, 1906, c. 1347, post, §§ 4656, 4657.

The right to make homestead entries under the provisions of this section was not affected by Act Feb. 19, 1909, c. 160, providing for enlarged homestead entries of lands, in certain states and territories named, designated as not irrigable, but no person making entry under that act is entitled to make homestead entry under this section, by section 6 of that act, post, § 4567.

The provision of the Naturalization Act of June 29, 1906, c. 3992, § 8, that (1859)
§ 4530  THE PUBLIC LANDS

no alien shall be naturalized or admitted to citizenship who can not speak the English language, does not apply to aliens who declare their intention to become citizens and make homestead entries on the public lands, by a provision annexed to said section 8, ante, § 4364.

Where an alien, after declaration of Intention to become a citizen becomes insane before he is actually naturalized, and his wife thereafter makes a homestead entry under the land laws, she and their minor children may be naturalized without making declaration of intention, by Act Feb. 24, 1911, c. 151, ante, § 4305.

The President was authorized to open by proclamation for settlement under the homestead laws the arid lands of the United States reserved for sites for irrigation purposes, and all lands made susceptible of irrigation by such reservoirs, etc., by Act Oct. 2, 1888, c. 1069, § 1, post, § 4096. So much of said act as reserved said sites and lands was repealed by Act Aug. 30, 1900, c. 837, § 1, post, § 4697.

Provisions relating to homestead entries, as well as to the sale, of lands in military reservations, which have been abandoned or have become useless for military purposes, or have been restored to the public domain, are collected or referred to in chapter 10H of this Title, "Abandoned Military Reservations."

Provisions relating to homestead entries on lands granted for railroads, after forfeiture, etc., of such grants, and for the relief of settlers on and purchasers of such lands, and which were of general application and remain in force, are set forth in chapter 10B of this Title, "Grants for Railroads and Wagon Roads." Other acts, making similar provisions for relief of settlers on lands granted to particular railroads, including grants and indemnity grants to the Northern Pacific Railroad, and lands in the States of North Dakota and South Dakota, within the limits of the projected extension of the grants of land to aid in construction of the several lines of railroad owned by the St. Paul, Minneapolis & Manitoba Railroad Company, being merely local in their nature, are omitted, but reference thereto is made in a note, to § 4017, post.

Provisions relating to homestead entries on lands acquired from the Indians and opened for settlement or other disposition, which are general in their nature, and remain in force, are set forth post, in chapter 10J of this Title, "Abandoned Tracts Ceded to the United States for Reserve Purposes, etc., by the Indians."

Provisions relating to homestead entries on lands acquired from particular Indian tribes, etc., usually providing that the particular tracts ceded shall be opened to settlement to actual settlers only, under the homestead laws, that R. S. § 2501, post, § 4590, shall not apply, and that settlers shall pay for the lands entered by them a fixed price per acre, being merely special and local in their nature, are omitted.

Provisions relating to homestead entries on lands in Greeley county, Okl., are collected or referred to in chapter 10J of this Title, "Public Lands in Oklahoma."

Provisions for withdrawal from entry of lands required for irrigation works, and provisions for entries under the homestead laws of lands susceptible of irrigation from such works were made by the Reclamation Act of June 27, 1902, c. 1063, §§ 3-5, post, §§ 4702-4704; but, by a provision annexed to said section 3, the commutation provisions of the homestead laws are not to apply to entries made under that act.

Provisions for exclusion from entry of irrigable lands within certain boundaries in Nebraska were made by the Kinkaid Act of April 20, 1904, c. 1801, § 1, post, § 4576.

§ 4531. (R. S. § 2290, as amended, Act March 3, 1891, c. 561, § 5.) Mode of procedure.

Any person applying to enter land under the preceding section shall first make and subscribe before the proper officer and file in the proper land office an affidavit that he or she is the head of a family, or is over twenty-one years of age, and that such application is honestly and in good faith made for the purpose of actual settlement (1860)
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.


This section, as originally enacted, was as follows:

"The person applying for the benefit of the preceding section shall, upon application to the register of the land office in which he is about to make such entry, make affidavit before the register or receiver that he is the head of a family, or is twenty-one years or more of age, or has performed service in the Army or Navy of the United States, and that such application is made for his exclusive use and benefit, and that his entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly for the use or benefit of any other person; 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 shall thereupon be permitted to enter the amount of land specified."

It was amended, to read as set forth here, by Act March 3, 1891, c. 561, § 5, cited above.

§ 4532. (R. S. § 2291, as amended, Act June 6, 1912, c. 153.) Certificate and patent, when given and issued; leaves of absence; proof upon commutation; proof required where entryman dies; area of cultivation; enlarged homesteads; Nebraska arid land entries; entries under reclamation act; election as to mode of making proof.

No certificate, however, shall be given or patent issued therefor until the expiration of three years from the date of such entry; and if at the expiration of such time, or at any time within two years thereafter, the person making such entry, or if he be dead his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry her heirs or devisee, in case of her death, proves by himself and by two credible witnesses that he, she, or they have a habitable house upon the land and have actually resided upon and cultivated the same for the term of three years succeeding the time

(1861)
of filing the affidavit, and makes affidavit that no part of such land has been alienated, except as provided in section twenty-two hundred and eighty-eight, and that he, she, or they will bear true allegiance to the Government of the United States, then in such case he, she, or they, if at that time citizens of the United States, shall be entitled to a patent, as in other cases provided by law: Provided, That upon filing in the local land office notice of the beginning of such absence, the entryman shall be entitled to a continuous leave of absence from the land for a period not exceeding five months in each year after establishing residence, and upon the termination of such absence the entryman shall file a notice of such termination in the local land office, but in case of commutation the fourteen months' actual residence as now required by law must be shown, and the person commuting must be at the time a citizen of the United States: Provided, That when the person making entry dies before the offer of final proof those succeeding to the entry must show that the entryman had complied with the law in all respects to the date of his death and that they have since complied with the law in all respects, as would have been required of the entryman had he lived, excepting that they are relieved from any requirement of residence upon the land: Provided further, That the entryman shall, in order to comply with the requirements of cultivation herein provided for, cultivate not less than one-sixteenth of the area of his entry, beginning with the second year of the entry, and not less than one-eighth, beginning with the third year of the entry, and until final proof, except that in the case of entries under section six of the enlarged-homestead law double the area of cultivation herein provided shall be required, but the Secretary of the Interior may, upon a satisfactory showing, under rules and regulations prescribed by him, reduce the required area of cultivation: Provided, That the above provision as to cultivation shall not apply to entries under the Act of April twenty-eighth, nineteen hundred and four, commonly known as the Kinkaid Act, or entries under the Act of June seventeenth, nineteen hundred and two, commonly known as the reclamation Act, and that the provisions of this section relative to the homestead period shall apply to all unperfected entries as well as entries hereafter made upon which residence is required: Provided, That the Secretary of the Interior shall, within sixty days after the passage of this Act, send a copy of the same to each homestead entryman of record who may be affected thereby, by ordinary mail to his last known address, and any such entryman may, by giving notice within one hundred and twenty days after the passage of this Act, by registered letter to the register and receiver of the local land office, elect to make proof upon his entry under the law under which the same was made without regard to the provisions of this Act.


This section, as originally enacted, was as follows:

"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 devisees; or in case of a widow making such entry, her heirs or devisees, is
case of her death, proves by two credible witnesses that he, she, or they have resided upon or cultivated the same for a 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."

It was amended by Act June 6, 1912, c. 153, cited above, to read as set forth here: the principal changes being the reduction of the time from five years to three, the requirement of proof by the entrant, as well as by witnesses, and the addition of the numerous provisos.

R. S. § 2298, mentioned in this section, is set forth post, § 4523.
The Kinkaid Act of April 23, 1904, c. 1801, mentioned in this section, is set forth post, §§ 4576-4578, and the Reclamation Act of June 17, 1902, c. 1098, is set forth post, §§ 4700-4708.

Provisions that the proof and oath required by this section might be made before the judge, or in his absence before the clerk, of any court of record in the county and State, or district and Territory, in which the lands were situated, by an act entitled "An act to amend section twenty-two hundred and ninety-one of the Revised Statutes of the United States, in relation to proof required in homestead entries," Act March 3, 1877, c. 122, § 1, 19 Stat. 403, and false swearing before such officer was to be punished the same as if before the register, by section 4 of that act, 19 Stat. 404. These sections were superseded by somewhat similar provisions applying to all affidavits and proof under the various land laws in R. S. § 2294, as amended by acts subsequent to said provisions, post, § 4546.

A provision that the failure of a homestead entrant to give notice of election of making his proof, as required by this section, should not prejudice his rights to proceed in accordance with the law under which such entry was made by Act Aug. 24, 1912, c. 355, post, § 4533.

A provision that any person entitled to enter lands under the homestead laws, who might have established residence upon unsurveyed lands prior to the enactment of this section, as amended in 1912, might perfect his proof for such lands under this section, as amended in 1912, or under the law existing at the time of such residence, as he might elect, signifying his election to the Department of the Interior in accordance with rules and regulations to be prescribed by the Secretary, was made by Act March 4, 1913, c. 149, post, § 4534.

Rights of infant children, in case of the death of both father and mother, were provided for by Rev. St. § 2292, post, § 4543.

Notice of intention to make final proof must be given, and publication thereof made, by Act March 3, 1879, c. 192, post, § 4539.

Whenever a vacancy occurs in the office of either the register or receiver, the remaining officer may take the final proof, by Act Oct. 1, 1890, c. 1239, § 2, ante, § 4486.

The time for making final proof, where such proof and payment had not been made, was extended one year from the time when such proof was required, by Act July 26, 1894, c. 164, 28 Stat. 123.

Publication of notices of contest was provided for by Act June 3, 1878, c. 162, § 1, post, § 4541.

Provisions for relinquishment of claims, for cancellation of entries and notice thereof to contestants, and for allowance to settlers of time to file applications, were made by Act May 14, 1880, c. 80, § 1, post, § 4538.

Provisions relating to suspended entries and claims and invalid and defective claims, and the disposition thereof, were made by R. S. §§ 2450-2457, and subsequent statutes, post, §§ 5106-5115.

The procedure in applications, entries, contests, and adjudications in the Territory of Oklahoma are to be in form and manner prescribed under the homestead laws by Act May 2, 1890, c. 182, § 20, post, § 5021, except as modified

(1863)
§ 4532 THE PUBLIC LANDS


Where more than the lawful purchase money is required to be paid by homestead settlers on final proof or commutation, the excess is to be repaid, by Act March 2, 1907, c. 2568, post, § 4542.

§ 4533. (Act Aug. 24, 1912, c. 355.) Failure to give notice of election as to mode of final proof not to prejudice right of entryman to proceed under former law.

The failure of a homestead entryman to give notice of election of making his proof as required by the Act of June sixth, nineteen hundred and twelve, being an Act to amend sections two hundred and ninety-one and two hundred and ninety-seven of the Revised Statutes of the United States, relating to homesteads, shall not in anywise prejudice his rights to proceed in accordance with the law under which such entry was made. (37 Stat. 455.)

Act June 8, 1912, c. 153, mentioned in this section, amended R. S. § 2291, to read as set forth ante, § 4532, and R. S. § 2297, to read as set forth post, § 4532.

The description of that act as an act to amend R. S. §§ 291 and 297, in this section, is apparently an error.

§ 4534. (Act March 4, 1913, c. 149.) Right of settler on unsurveyed land to elect as to law under which to make final proof.

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 signed to the Department of the Interior in accordance with rules and regulations to be prescribed by the Secretary. (37 Stat. 925.)

Act June 8, 1912, c. 149, mentioned in this section, amended R. S. § 2291, to read as set forth ante, § 4532, and R. S. § 2297, to read as set forth post, § 4532.

Provisions for the election, by one who had entered a homestead prior to the passage of that act, as to the law under which he would make final proof, were contained in R. S. § 2291, as amended in 1912, ante, § 4532.

§ 4535. (R. S. § 2288, as amended, Act March 3, 1891, c. 561. § 3, and Act March 3, 1905, c. 1424.) Right of transfer of settler under homestead or pre-emption laws for certain public purposes.

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 (1884)
§ 4537. (Act May 14, 1880, c. 89, § 2, as amended, Act July 26, 1892, c. 251.) Cancellation of claim; notice to contestant; death of contestant.

In all cases where any person has contested, paid the land-office fees, and procured the cancellation of any [pre-emption,] homestead, [or timber-culture] entry, he shall be notified by the register of the land office of the district in which such land is situated of such cancellation, and shall be allowed thirty days from date of such notice to enter said lands: Provided, That said register shall be entitled to a fee of one dollar for the giving of such notice, to be paid by the contestant and not to be reported: Provided further, That should any such person who has initiated a contest die before the final termination of the same, said contest shall not abate by reason thereof, but his heirs who are citizens of the United States, may continue the prosecution under such rules and regulations as the Secretary of the Interior may prescribe, and said heirs shall be entitled to the same rights under this act that contestant would
§ 4537

THE PUBLIC LANDS

(Tit. 32)

have been if his death had not occurred. (21 Stat. 141. 27 Stat. 270.)

This section, as originally enacted, did not contain the last proviso thereof, as set forth here. Said proviso was added by amendment of the section by Act July 26, 1892, c. 251, last cited above.

The word "pre-emption," inclosed in brackets in this section, was superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See note to chapter 4 of this Title.

The words "or timber culture," also inclosed in brackets, were superseded by the repeal of the timber-culture laws by Act March 3, 1891, c. 561, § 1, post. § 5118.

The provision of this section, as originally enacted, that the fee for giving notice of cancellation was not to be reported, was superseded by the requirement that all fees collected from any source whatever by registers and receivers, which would increase their salaries beyond $3,000 a year and the actual cost of clerical service in contested cases, should be covered into the Treasury, by Act March 3, 1887, c. 362, ante, § 4479. The provision was re-enacted by the amendment of this section as set forth above, and again superseded by the requirement that these fees should be reported and accounted for, by Act March 4, 1911, c. 261, § 2, ante, § 4480.

Where contests were initiated under this act prior to withdrawal of the land for national forest purposes, qualified successful contestants were allowed to exercise their preference right to enter the land, for a limited time, by Act March 3, 1911, c. 225, § 2, post, § 5172.

§ 4538. (Act May 14, 1880, c. 89, § 3, as amended, Act June 6, 1900, c. 821, and Act Aug. 9, 1912, c. 280.) Time for settler to file homestead application and perfect entry; marriage of homestead entrywoman; preference rights to settlers on enlarged homesteads on non-irrigable lands; time for entry on enlarged homesteads.

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 pre-emption 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 pre-emption laws.

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. Provided, That any settler upon lands designated by the Secretary of the Interior as subject to the provisions of sections one to five (1866)
of the enlarged homestead Acts of February nineteenth, nineteen hundred and nine (Thirty-fifth Statutes at Large, page six hundred and thirty-nine), and June seventeenth, nineteen hundred and ten (Thirty-sixth Statutes at Large, page 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. (21 Stat. 141. 31 Stat. 683. 37 Stat. 267.)

This section, as originally enacted, contained only the first paragraph thereof as set forth here, ending with the words, "the same as if he settled under the pre-emption laws."

It was amended by Act June 6, 1900, c. 821, cited above, by adding the provisions beginning with the words, "Where an unmarried woman who has heretofore settled," etc., and ending with the words, "claimed by such entrywoman at the date of passage."

It was further amended by Act Aug. 9, 1912, c. 280, last cited above, by adding at the end of the section as theretofore amended, the provisions beginning with the words, "Provided, that any settler upon lands designated by the Secretary of the Interior as subject to the provisions of sections one to five," etc., to the end of the section as set forth here.

The enlarged homestead acts, Act Feb. 19, 1909, c. 160, and Act June 17, 1910, c. 298, mentioned in the provisos added to the section by said last amendment, are set forth post, §§ 4563-4574.

§ 4539. (Act March 3, 1879, c. 192.) Notice of intention to make final proof.

Before final proof shall be submitted by any person claiming to enter agricultural lands under the laws providing for (pre-emption 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
§ 4539  THE PUBLIC LANDS

provided by law. The Secretary of the Interior shall make all necessary rules for giving effect to the foregoing provisions. (20 Stat. 472.)

This was an act entitled "An act to provide additional regulations for homestead and pre-emption entries of public lands."

The words "pre-emption or," included in brackets in this section, were superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 561. § 4, 25 Stat. 1097. See notes to chapter 4 of this Title.

This act is not to be construed as forbidding the taking of testimony for final proofs 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, by Act March 2, 1889, c. 381, § 7, post, § 4540.

§ 4540. (Act March 2, 1889, c. 381, § 7.) Taking testimony for final proof in case of unavoidable delay.

The "act to provide additional regulations for homestead and pre-emption entries of public lands," 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. (25 Stat. 855.)

This section was part of an act to withdraw certain public lands from private entry, etc., cited above.

Act March 3, 1879, c. 192, mentioned in this section, is set forth ante, § 4539.

§ 4541. (Act June 3, 1878, c. 152, § 1.) Notice of contest; publication.

The notices of contest now provided by law under the homestead, [pre-emption and tree-culture] laws of the United States shall, after the passage of this act, be printed in some newspaper printed in the county where the land in contest lies; and if no newspaper be printed in such county, then in the newspaper printed in the county nearest to such land. (20 Stat. 91.)

This was an act entitled "An act to provide for the publication of Notices of contest under the homestead, pre-emption, and tree-culture laws of the United States."

The words "pre-emption and tree-culture," included in brackets in this section, were superseded by the repeal of the pre-emption and tree-culture laws by Act March 3, 1891, c. 561, § 1, post, § 5118, and section 4 of said act, 26 Stat. 1097. See notes to chapter 4 of this Title.

Contests under the pre-emption laws were provided for by R. S. § 2273.

§ 4542. (Act March 2, 1907, c. 2568.) Repayment of excess required to be paid on final proof or commutation.

In all cases in which homestead entrymen upon final proof or commutation shall have been required to pay more than the lawful purchase money for their lands, the Secretary of the Interior shall cause the excess to be repaid to the entryman or to his heirs or assigns. (34 Stat. 1248.)

This was an act entitled "An act for the relief of homestead entrymen who have paid more than the lawful purchase money."

Subsequent provisions for repayment of excess moneys paid under the public (1868)
land laws, and of purchase moneys, etc., paid under applications, etc., afterwards rejected, were made by Act March 26, 1906, c. 102, ante, §§ 4491-4493.

§ 4543. (R. S. § 2292.) When rights inure to the benefit of infant children.

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.

The provisions of R. S. § 2291, ante, § 4532, and of this section were made applicable to the cases of settlers who had actually established residence and made improvements on land in Greer county, Okl., prior to March 16, 1896, and their entry on such lands was to be treated as having accrued at the time the residence was established, by Act Jan. 18, 1897, c. 62, § 1, post, § 5040.
Provisions for issuing patents in cases where the claimants have become insane were made by Act June 8, 1880, c. 136, post, § 4544.
Provisions relating to the rights of widows and children of persons entitled to soldiers' or sailors' homesteads were made by R. S. § 2307, post, § 4602.

§ 4544. (Act June 8, 1880, c. 136.) Insanity of settlers; proof and payment by persons authorized to act for them.

In all cases in which parties who regularly initiated claims to public lands as settlers thereon according to the provisions of the [pre-emption 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 requirement 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. (21 Stat. 166.)

This was an act entitled "An act to provide for issuing patents for public lands claimed under the pre-emption and homestead laws in cases where the claimants have become insane."
The words "pre-emption or," inclosed in brackets in this section, were superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See notes to chapter 4 of this Title.

§ 4545. (R. S. § 2293.) Persons in military or naval service, when and before whom to make affidavit.

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 sec-
tions require; and whose family, or some member thereof, is residing
on the land which he desires to enter, and upon which a bona-fide im-
provement 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 regis-
ter or receiver; and upon such affidavit being filed with the register
by the wife or other representative of the party, the same shall be
come effective from the date of such filing, provided the application
and affidavit are accompanied by the fee and commissions as required
by law.

Act March 21, 1864, c. 88, § 4, 13 Stat. 295.

§ 4546. (R. S. § 2294, as amended, Act May 26, 1890, c. 355, Act
March 11, 1902, c. 182, and Act March 4, 1904, c. 394.) Of-
ficers before whom affidavits, proofs, etc., may be made; false
swearing deemed perjury and punishable; fees.

Hereafter all proofs, affidavits, and oaths of any kind whatso-
ever required to be made by applicants and entrymen under the
homestead, [pre-emption, 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 ju-
risdiction 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 here-
inbefore mentioned be taken out of the county in which the land is
located the applicant must show by affidavit, satisfactory to the Com-
mmissioner of the General Land Office, that it was taken before the near-
est 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. 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. 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.

(1870)
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.


This section, as originally enacted, was as follows:

"In any case in which the applicant for the benefit of the homestead, 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, is prevented by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, it may be lawful for him to make the affidavit required by law before the clerk of the court for the county in which the applicant is an actual resident, and to transmit the same, with the fees and commissions to the register and receiver."

It was amended by Act May 26, 1890, c. 355, cited above, to read as follows:

"In any case in which the applicant for the benefit of the homestead, pre-emption, timber culture, or desert land law is prevented, by reason of distance, bodily infirmity, or other good cause, from personal attendance at the district land office, he or she may make the affidavit required by law before any commissioner of the United States circuit court or the clerk of a court of record for the county in which the land is situated, and transmit the same, with the fee and commissions to the register and receiver. That the proof of settlement, residence, occupation, cultivation, irrigation, or reclamation, the affidavit of non-alienation, the oath of allegiance, and all other affidavits required to be made under the homestead, pre-emption, timber culture, and desert land laws, may be made before the judge or clerk of any court of record of the county or parish in which the lands are situated; and the proof, affidavit, and oath, when 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 fee and commissions allowed and required by law;" the balance of the section being the same as set forth here.

It was further amended by Act March 11, 1902, c. 152, also cited above, to read as set forth here, except that the words "county, parish," before the words "or land district," in the first sentence of the section, and the words "or which may have heretofore been so made and duly subscribed" in the second sentence, were not contained in that act, but were added by the amendment by Act March 4, 1904, c. 394, last cited above.


The appointment of United States commissioners, empowered to administer the oaths in preliminary affidavits and final proofs, in like manner as provided in this section, was authorized by Act March 2, 1866, c. 174, post, §§ 4547-4549.

This section, as amended, superseded somewhat similar provisions contained in Act March 3, 1877, c. 122, §§ 1, 2, 19 Stat. 403, which was entitled "An act to amend section twenty-two hundred and ninety-one of the Revised Statutes of the United States, in relation to proof required in homestead entries."

See note to R. S. § 2291, ante, § 4532.

This section, as amended, also superseded somewhat similar provisions concerning the affidavits required under the pre-emption laws, R. S. § 2232, and the laws concerning the commutation of homesteads, R. S. § 2301, post, § 4589, made by Act June 9, 1880, c. 164, 21 Stat. 169.

(1871)
§ 4547. (Act March 2, 1895, c. 174, § 1.) United States court commissioners; appointment.

The chief justice of the court exercising Federal jurisdiction in the Territories shall have power to appoint commissioners in the several judicial districts, to be known when appointed as United States court commissioners. (28 Stat. 744.)

This section and the two sections next following were part of an act entitled "An act granting chief justice of United States courts in Territories power to appoint commissioners to take proof in land cases, and so forth."

Section 4 of the Act provided that the act should be in force from and after its passage, and is omitted as temporary.

§ 4548. (Act March 2, 1895, c. 174, § 2.) Administration of oaths in preliminary affidavits and final proofs under land laws.

Said commissioners shall have power, and it shall be their duty on application by proper person, to administer the oaths in preliminary affidavits and final proofs required under the homestead, pre-emption, timber culture, and desert-land laws in their respective districts, in like manner as provided for in reference to United States circuit court commissioners, in the Act of May twenty-sixth, eighteen hundred and ninety. Twenty-sixth Statutes at Large, page one hundred and twenty-one. (28 Stat. 744.)

Act May 26, 1890, c. 355, mentioned in this section, amended R. S. § 2294, ante, § 4546. See note to that section for the provisions of said act.

§ 4549. (Act March 2, 1895, c. 174, § 3.) Place of residence of court commissioner.

No commissioner shall be appointed who resides within thirty miles of any local land office, nor shall any commissioner be appointed who resides within thirty miles of any other commissioner. (28 Stat. 744.)

§ 4550. (R. S. § 2295.) Record of applications.

The register of the land-office shall note all applications under the provisions of this chapter, on the tract-books and plats of his office, and keep a register of all such entries, and make return thereof to the General Land Office, together with the proof upon which they have been founded.

Act May 20, 1892, c. 75, § 3, 12 Stat. 393.

§ 4551. (R. S. § 2296.) Homestead lands not to be subject to prior debts.

No lands required 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.

Act May 20, 1892, c. 75, § 4, 12 Stat. 393.

The word "required," in this section was evidently intended for "acquired."


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 (1872)
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.


This section, as originally enacted, was as follows:

"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."

It was amended by Act March 3, 1881, c. 153, cited above, by adding a proviso that for climatic reasons the Commissioner of the General Land Office might, in his discretion, allow the settler twelve months from the date of filing in which to commence his residence, and was further amended, to read as set forth here, by Act June 6, 1912, c. 153, last cited above.

Leaves of absence and extensions of time for final proofs and payment were granted to settlers by Act July 1, 1879, c. 63, § 1, Act March 2, 1889, c. 381, § 3, as amended by Act Dec. 28, 1894, c. 14, and Res. Sept. 30, 1890, No. 59, post, §§ 4553-4555.

§ 4553. (Act July 1, 1879, c. 63, § 1.) Leave of absence where crops destroyed or seriously injured by grasshoppers.

It shall be lawful for homestead [and pre-emption] settlers on the public lands, [and in all cases where pre-emptions are authorized by law,] where crops have been or may be destroyed or seriously injured by grasshoppers, to leave and be absent from said lands, under such rules and regulations, as to proof of the same, as the Commissioner of the General Land Office shall prescribe; but in no case shall such absence extend beyond one year continuously; and during such absence no adverse rights shall attach to said lands, such settlers being allowed to resume and perfect their settlement as though no such absence had occurred. (21 Stat. 48.)

This section was part of an act entitled "An act for the relief of settlers on the public lands in districts subject to grasshopper incursions," cited above. Section 2 of the act extended the time for making final proof and payment upon pre-emption claims.

That section and the words inclosed in brackets in this section became inoperative upon the repeal of the pre-emption laws by Act March 3, 1891, c. 501, § 4, 26 Stat. 1097, and of the timber-culture laws by Act March 3, 1891, c. 501, § 1, post, § 5116.

More comprehensive provisions for leaves of absence on account of destruction or failure of crops were made by Act March 2, 1889, c. 381, § 3, post, § 4554.
§ 4554. (Act March 2, 1889, c. 381, § 3, as amended, Act Dec. 29, 1894, c. 14.) Leave of absence on destruction or failure of crops, sickness, or other unavoidable casualty.

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 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. That if any such settler has heretofore forfeited his or her entry for any of said reasons, such person shall be permitted to make entry of, not to exceed a quarter section on any public land subject to entry under the homestead law, and to perfect title to the same under the same conditions in every respect as if he had not made the former entry. (25 Stat. 854. 28 Stat. 599.)

This section was amended by Act Dec. 29, 1894, c. 14, cited above, by adding to the proviso at the end of the section as originally enacted the words beginning, "That if any such settler has heretofore forfeited," to the end of the section as set forth here.

§ 4555. (Res. Sept. 30, 1890, No. 59.) Time for payment extended.

Whenever it shall appear by the filing of such evidence in the offices of any register and receiver as shall be prescribed by the Secretary of the Interior that any settler on the public lands, by reason of a failure of crops for which he is in wise person responsible, is unable to make the payment on his homestead [or pre-emption] claim required by law, the Commissioner of the General Land Office is hereby authorized to extend the time for such payment for not exceeding one year from the date when the same becomes due. (26 Stat. 684.)

The words "or pre-emption," inclosed in brackets in this section, were superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 581, § 4, 26 Stat. 1097. See notes to chapter 4 of this Title.

§ 4556. (Act Feb. 3, 1911, c. 34.) Homestead entry or desert-land entry after former entry lost, forfeited, or abandoned.

Any person who, prior to the approval of this Act, has made entry under the homestead or desert-land laws, but who, subsequently to such entry, from any cause shall have lost, forfeited, or abandoned the same, shall be entitled to the benefits of the homestead or desert-land laws as though such former entry had not been made, and any person applying for a second homestead or desert-land entry under this Act shall furnish a description and the date of his former entry: Provided, That the provisions of this Act shall not apply to any person whose former entry was canceled for fraud, or who relinquished his former entry for a valuable consid-
eration in excess of the filing fees paid by him on his original entry. (36 Stat. 896.)

This was an act entitled "An act providing for second homestead and desert-land entries."

Provisions somewhat similar to those of this act, but applying only to homestead entries, of Act March 2, 1889, c. 381, § 2, 25 Stat. 564; Act June 5, 1900, c. 716, § 3, 31 Stat. 270, and Act April 28, 1904, c. 1776, § 1, 33 Stat. 527, were superseded by provisions identical with those of this section, except for the omission of the words "desert-land" wherever they occur here, made by Act Feb. 5, 1908, c. 19, 35 Stat. 6, which act was itself superseded by this section.

Similar provisions for second desert-land entries were made by Act March 26, 1908, c. 108, 35 Stat. 48, which were also superseded by this section.

§ 4557. (R. S. § 2298.) Limitation of amount entered for homestead.

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

Act May 20, 1862, c. 75, § 6, 12 Stat. 393.

Homestead entries after a former entry not perfected, or additional to a former entry of less than one quarter section, were provided for by subsequent acts, post, §§ 4560–4562.

Homestead entries after commutation or after loss or forfeiture of a former entry were provided for by Act June 5, 1900, c. 716, § 2, post, § 4583.

All parties who had purchased land in Greer county, Okl., from the State of Texas, prior to March 18, 1896, were entitled to perfect their titles to said lands under the provisions of the homestead laws, notwithstanding the fact that they have already had the benefit of the homestead laws as to other lands, by Act March 1, 1899, c. 328, post, § 5044.

Special limitations of the amount to be entered for homestead in Alaska were prescribed by the amendment of Act May 14, 1886, c. 209, § 1, by Act March 3, 1903, c. 1002, post, § 5046.

Provisions for additional entries or second entries on ceded Indian lands or lands in Indian reservations opened to settlement, contained in various acts, are set forth or referred to post, under chapter 10 I of this Title, "Ceded Indian Reservations."

§ 4558. (Act Aug. 30, 1890, c. 837, § 1.) Limitation of aggregate amount entered under any land laws.

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. (26 Stat. 391.)

Homestead entries of 320 acres or less of nonmineral, nonirrigable, etc., lands, not containing merchantable timber, in certain states and territories named, were permitted, by Act Feb. 19, 1909, c. 160, and Act June 17, 1910, c. 298, post, §§ 4563–4574.

Homestead entries of not exceeding in area 640 acres of lands within certain designated boundaries in the State of Nebraska were allowed, and former homestead entries were not to be a bar thereto, by provisions of the Kinkaid Act of April 28, 1904, c. 1801, amended by Act May 29, 1908, c. 220, § 7, post, §§ 4570–4578.

Special limitations of the amount to be entered in Alaska were prescribed

(1875)
§ 4558. THE PUBLIC LANDS

by Act May 14, 1866, c. 299, § 1, 30 Stat. 400, amended by Act March 8, 1903, c. 1002, post, § 5046.

This was a provision of the sundry civil appropriation act for the fiscal year 1891, cited above.

The entries, etc., mentioned in this provision as validated by this act were entries, etc., which would have been valid but for the withdrawal of such lands from entry by provisions of Act Oct. 2, 1888, c. 1069, which were repealed by a preceding provision of this act, post, § 4696.

The application of this provision was limited to agricultural lands, not including in the maximum amount lands entered under mineral land laws, by Act March 3, 1891, c. 561, § 17, post, § 4559.

§ 4559. (Act March 3, 1891, c. 561, § 17.) Lands entered under mineral land laws not included in amount limited.

The provision 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 to include lands entered or sought to be entered under mineral land laws. (26 Stat. 1101.)

This provision was part of section 17 of Act March 3, 1891, c. 561, to repeal timber-culture laws and for other purposes, cited above.

The preceding portion of the section, which restricted reservations for the uses of the land actually necessary, etc., is set forth post, § 4608.

The provision of the sundry civil appropriation act for the fiscal year 1891, referred to in this section, is set forth ante, § 4558.

§ 4560. (Act March 2, 1889, c. 381, § 6.) Additional entry after final proof on former entry of less than one quarter-section.

Every person entitled, under the provisions of the homestead laws, 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 a 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. (25 Stat. 854.)

R. S. § 2906, mentioned in this section is set forth post, § 4594.

Additional entries by one who has entered less than one quarter section (1876)

(1876)
of land, might be made upon land contiguous to the former entry without proof of residence, under the provisions of Act April 28, 1804, c. 1776, § 2, post, § 4561.

§ 4561. (Act April 28, 1904, c. 1776, § 2.) Additional entry of land contiguous to former entry of less than one quarter section.

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. (33 Stat. 527.)

This section and the section next following were part of an act entitled “An act providing for second and additional homestead entries, and for other purposes.”

Section 1 of this act provided that any person who had heretofore made entry under the homestead laws, but should show to the satisfaction of the General Land Office that he was unable to perfect the entry on account of an honest mistake as to the character of the land, etc., should be entitled to the benefit of the homestead laws as though such former entry had not been made. It was superseded by the broader provisions of Act Feb. 8, 1908, c. 19, 35 Stat. 6, which was itself superseded by Act Feb. 8, 1911, c. 54, ante, § 4556. This section re-enacted the provisions of Act March 2, 1889, c. 381, § 5, 25 Stat. 854, in the same language, with the addition, after the words at the beginning, “That any homestead settler who has heretofore entered,” of the words, “or may hereafter enter,” and the omission, after the words of the first proviso, “That this section shall not apply to or for the benefit of any person who,” of the words, “at the date of making application for entry hereunder,” which were in said former section.

Additional entries, after final proofs on former entry of less than one quarter-section, of land not contiguous thereto, were provided for by Act March 2, 1889, c. 381, § 6, ante, § 4560.

§ 4562. (Act April 28, 1904, c. 1776, § 3.) Commutation of entries under this act not allowed.

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. (33 Stat. 527.)

Rev. St. § 2301, mentioned in this section, is set forth post, § 4569.

Provisions for commutation of homestead entries heretofore made, by payment of the government price for the land, were made by Act June 15, 1880, c. 227, § 2, 21 Stat. 237. They are omitted as temporary merely, and executed.

§ 4563. (Act Feb. 19, 1909, c. 160, § 1, as amended, Act June 13, 1912, c. 166.) Enlarged homestead entries of nonmineral, nonirrigable, etc., lands, not containing merchantable timber, in certain States; lands to be designated as not irrigable.

Any person who is a qualified entryman under the homestead (1877)
laws of the United States may enter, by legal subdivisions, under
the provisions of this Act, in the States of Arizona, California, Col-
orado, Montana, Nevada, New Mexico, North Dakota, Oregon,
Utah, Washington, and Wyoming, three hundred and twenty acres,
or less, of nonmineral, nonirrigable, unreserved, and unappropriat-
ed 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 rea-
sonable cost from any known source of water supply. (35 Stat. 639.
37 Stat. 132.)

This section and the five sections next following were an act entitled "An
act to provide for an enlarged homestead."

The amendment of this section by Act June 13, 1912, c. 106, cited above,
consisted in the addition of California and North Dakota to the States
included in the act, and in the designation of Arizona and New Mexico as
States, instead of Territories, as in the original section.

Provisions similar to those of this act for entries of enlarged homesteads
in the State of Idaho, were contained in Act June 17, 1910, c. 298, as amended
by Act Feb. 11, 1913, c. 39, post, §§ 4569–4574.

§ 4564. (Act Feb. 19, 1909, c. 160, § 2.) Applications for entry;
affidavits; fees.

Any person applying to enter land under the provisions of this
Act shall make and subscribe before the proper officer an affi-
davit 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. (35 Stat. 639.)

R. S. § 2290, mentioned in this section, is set forth ante, § 4581.

§ 4565. (Act Feb. 19, 1909, c. 160, § 3, as amended, Act Feb. 11,
1913, c. 39.) Additional entry of land contiguous to former
entry, not to exceed limitation.

Any homestead entryman of lands of the character herein de-
scribed, upon which entry final proof has not been made, shall have
the right to enter public lands, subject to the provisions of this Act,
contiguous to his former entry, which shall not, together with the
original entry, exceed three hundred and twenty acres. (35 Stat.
639. 37 Stat. 666.)

The amendment of this section by Act Feb. 11, 1913, c. 39, cited above,
consisted in the insertion of the word "entry" between the words "upon
which" and the words "final proof has not been made," and in the omission
of a provision that residence upon and cultivation of the original entry should
be deemed residence upon and cultivation of the additional entry, which was
contained in the section as originally enacted.

All pending entries made in good faith under this act by persons who, be-
fore making such entry, had acquired title to less than 160 acres under the
homestead law, and were, therefore, disqualified to make additional entries,
were validated by Act Aug. 24, 1912, c. 381, post, § 4575.

(1878)
§ 4566. (Act Feb. 19, 1909, c. 160, § 4, as amended, Act Feb. 11, 1913, c. 39.) Proof of cultivation upon making final proofs; final proofs upon additional entries; extension of time for final proofs upon additional entries.

At the time of making final proofs 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 the said section, proved by 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 hereafter makes additional entry under the provisions of section three of this Act 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 the 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 improvements made under 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 combined entry is hereby extended to seven years from the date of the original 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. (35 Stat. 639. 37 Stat. 666.)

This section, as originally enacted, contained only provisions similar to those preceding the provisions in the section as set forth here, which required proofs of cultivation of one-eighth and one-fourth of the area embraced in the entry, in the second and third years, respectively. It was amended by reducing said amount to one-sixteenth and one-eighth, respectively, and by adding the two provisions, making the section read as set forth here, by Act Feb. 11, 1913, c. 39, last cited above.

R. S. § 2291, mentioned in this section, is set forth ante, § 4532.

§ 4567. (Act Feb. 19, 1909, c. 160, § 5.) Right to make homestead entries under Rev. St. § 2289, not affected by act; entries under act not to be commuted.

Nothing herein contained shall be held to affect the right of a (1879)
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. (35 Stat. 639.)

R. 8, § 2280, mentioned in this section, is set forth ante, § 4580.

§ 4568. (Act Feb. 19, 1909, c. 160, § 6.) Lands in Utah without
supply of water for domestic use to be designated; require-
ments of residence and cultivation as to such lands.

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
shall be subject to entry under this Act without the necessity of resi-
dence: 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. (35 Stat. 640.)

§ 4569. (Act June 17, 1910, c. 298, § 1.) Enlarged homestead en-
tries of non-mineral, non-irrigable lands not containing mer-
chantable timber in Idaho; lands to be designated as not ir-
grable.

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, unres-
served, 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: Pro-
vided, 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 sup-
ply. (36 Stat. 531.)

This section and the five sections next following were an act entitled "An
act to provide for an enlarged homestead."

Previous provisions similar to those of this act for entries of enlarged hom-
esteads in certain other States were made by Act Feb. 19, 1909, c. 160, as
amended by Act June 13, 1912, c. 160, and Act Feb. 11, 1913, c. 39, ante, §§
4568-4568.

§ 4570. (Act June 17, 1910, c. 298, § 2.) Applications for entry; af-
fidavits; fees.

Any person applying to enter land under the provisions of this
Act shall make and subscribe before the proper officer an affida-

(1880)
vit 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. (36 Stat. 532.)

R. S. § 2280, mentioned in this section, is set forth ante, § 4531.

§ 4571. (Act June 17, 1910, c. 298, § 3, as amended, Act Feb. 11, 1913, c. 39.) Additional entry of land contiguous to former entry, not to exceed limitation.

Any homestead entry of lands of the character herein described, upon which entry final proof has not been made, shall have the right to enter public lands, subject to the provisions of this Act, contiguous to his former entry, which shall not, together with the original entry, exceed three hundred and twenty acres. (36 Stat. 532. 37 Stat. 666.)

The amendment of this section by Act Feb. 11, 1913, c. 89, cited above, consisted in the insertion of the word "entry" between the words "upon which" and the words "final proof has not been made," and in the omission of a provision that residence upon and cultivation of the original entry should be deemed residence upon and cultivation of the additional entry, which was contained in the section as originally enacted.

All pending entries made in good faith under this act by persons who, before making such entry, had acquired title to less than 160 acres, and were therefore disqualified to make additional entries, were validated by Act Aug. 24, 1912, c. 881, post, § 4575.

§ 4572. (Act June 17, 1910, c. 298, § 4, as amended, Act Feb. 11, 1913, c. 39.) Proof of cultivation upon making final proofs; final proofs upon additional entries; extension of time for final proofs upon additional entries.

At the time of making final proofs, 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 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 hereafter makes additional entry under the provisions of section three of this Act 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 the 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

(1881)
§ 4572. THE PUBLIC LANDS

may be considered as one, with full credit for residence upon and improvements made under 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 combined entry is hereby extended to seven years from the date of the original 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. (36 Stat. 532. 37 Stat. 666.)

This section, as originally enacted, contained only provisions similar to those preceding the proviso in the section as set forth here, which required proofs of cultivation of one-eighth and one-fourth of the area embraced in entry, in the second and third years, respectively. It was amended by reducing said amounts to one-sixteenth and one-eighth, respectively, and by adding the two provisos, making the section read as set forth here, by Act Feb. 11, 1913, c. 39, last cited above.

R. S. § 2291, mentioned in this section, is set forth ante, § 4532.

§ 4573. (Act June 17, 1910, c. 298, § 5.) Right to make homestead entries under Rev. St. § 2289, not affected by act; entries under act not to be commuted.

Nothing herein contained shall be held to affect the right of a qualified entryman to make homestead entry in the State of Idaho 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. (36 Stat. 532.)

R. S. § 2289, mentioned in this section, is set forth ante, § 4530.

§ 4574. (Act June 17, 1910, c. 298, § 6.) Lands without supply of water for domestic use to be designated; requirements of residence and cultivation as to such lands; leaves of absence.

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. (36 Stat.
532.)

§ 4575. (Act Aug. 24, 1912, c. 381.) Validation of certain entries,
made in good faith upon enlarged homesteads, by persons who
had theretofore acquired title under the homestead laws.

All pending homestead entries made in good faith prior to Sep-
tember first, nineteen hundred and eleven, under the provisions of
the enlarged homestead laws, by persons who, before making such
enlarged homestead entry, had acquired title to a technical quarter
section of land under the homestead law, and therefore were not
qualified to make an enlarged homestead entry, be, and the same
are hereby, validated, if in all other respects regular, in all cases
where the original homestead entry was for less than one hundred
and sixty acres of land. (37 Stat. 506.)

This was an act entitled, "An act validating certain homestead entries."
The enlarged homestead laws, referred to in this section, were Act Feb.
18, 1909, c. 160, ante, §§ 4503-4508, and Act June 17, 1910, c. 298, ante, §§
4560-4574.

§ 4576. (Act April 28, 1904, c. 1801, § 1.) Limitation of entries
within certain boundaries in Nebraska extended; exclusion of
irrigable lands from provisions of act.

From and after sixty days after the approval of this Act entries
made under the homestead laws in the State of Nebraska west
and north of the following lines, to wit: Beginning at a point on
the boundary line between the States of South Dakota and Ne-
braska where the first guide meridian west of the sixth principal
meridian strikes said boundary; thence running south along said
guide meridian to its intersection with the fourth standard parallel
north of the base line between the States of Nebraska and Kansas;
thence west along said fourth standard parallel to its intersection with
the second guide meridian west of the sixth principal meridian; thence
south along said second guide meridian to its intersection with
the third standard parallel north of the said base line; thence
west along said third standard parallel to its intersection with
the range line between ranges twenty-five and twenty-six west
of the sixth principal meridian; thence south along said line to
its intersection with the second standard parallel north of the said
base line; thence west on said standard parallel to its intersection
with the range line between ranges thirty and thirty-one west;
thence south along said line to its intersection with the boundary
line between the States of Nebraska and Kansas, shall not exceed in
area six hundred and forty acres, and shall be as nearly compact in
form as possible, and in no event over two miles in extreme length:
Provided, That there shall be excluded from the provisions of this Act
such lands within the territory herein described as in the opinion of
the Secretary of the Interior it may be reasonably practicable to irrigate
under the national irrigation law, or by private enterprise; and that
said Secretary shall, prior to the date above mentioned, designate and

(1883)
§ 4576  THE PUBLIC LANDS  (Tit. 33)

exclude from entry under this Act the lands, particularly along the North Platte River, which in his opinion it may be possible to irrigate as aforesaid; and shall thereafter, from time to time, open to entry under this Act any of the lands so excluded, which, upon further investigation, he may conclude can not be practically irrigated in the manner aforesaid. (33 Stat. 547.)

This section and the two sections next following constituted the Kinkaid Act entitled "An act to amend the homestead laws as to certain unappropriated and unreserved lands in Nebraska."

Somewhat similar provisions for the entry of homesteads of not to exceed 820 acres in other States were made by Act Feb. 18, 1909, c. 100, ante, §§ 4565-4568, and Act June 17, 1910, c. 208, ante, §§ 4569-4574.

§ 4577. (Act April 28, 1904, c. 1801, § 2, as amended, Act May 29, 1908, c. 220, § 7.) Additional entry of land contiguous to former entry, not to exceed in the aggregate the limitation as extended.

Entrymen under the homestead laws of the United States within the territory above described who own and occupy the lands herebefore entered by them, may, under the provisions of this Act and subject to its conditions, enter other lands contiguous to their said homestead entry, which shall not, with the land so already entered, owned, and occupied, exceed in the aggregate six hundred and forty acres; and residence continued and improvements made upon the original homestead, subsequent to the making of the additional entry, shall be accepted as equivalent to actual residence and improvements made upon the additional land so entered, but final entry shall not be allowed of such additional land until five years after first entering the same, except in favor of entrymen entitled to credit for military service. (33 Stat. 548. 35 Stat. 466.)

In this section, as originally enacted, the last provision, following the semicolon, was as follows:

"And residence upon the original homestead shall be accepted as equivalent to residence upon the additional land so entered, but final entry shall not be allowed of such additional land until five years after first entering the same."

It was amended to read as set forth here by Act May 29, 1908, c. 220, § 7, last cited above.

Similar provisions as to entries additional to previous entry of less than one quarter section were made by Act April 28, 1904, c. 1776, § 2, ante, § 4561.

Further provisions for additional entries by former homestead entrymen were made by section 3 of this act, post, § 4578.

The qualifications of an entryman under this Act were to be determined by the qualifications, except as to citizenship, possessed on the date of his first entry, by Act Aug. 24, 1912, c. 371, post, § 4582.

§ 4578. (Act April 28, 1904, c. 1801, § 3.) Fees and commissions on entries; commutation of entries not allowed; improvements to be shown on final proof; entries under this Act by former homestead entrymen.

The fees and commissions on all entries under this Act shall be uniformly the same as those charged under the present law for a maximum entry at the minimum price. The commutation provisions of the homestead law shall not apply to entries under this (1884)
Act, and at the time of making final proof the entryman must prove affirmatively that he has placed upon the lands entered permanent improvements of the value of not less than one dollar and twenty-five cents per acre for each acre included in his entry: Provided, That a former homestead entry shall not be a bar to the entry under the provisions of this Act of a tract which, together with the former entry, shall not exceed six hundred and forty acres: Provided, That any former homestead entryman who shall be entitled to an additional entry under section two of this Act shall have for ninety days after the passage of this Act the preferential right to make additional entry as provided in said section. (33 Stat. 548.)

Fees and commissions of registers and receivers were prescribed by R. S. § 2238, and subsequent provisions ante, §§ 4473-4476.

Provisions for commutation of homestead entries, mentioned in this section, were contained in R. S. § 2301, and subsequent acts, post, §§ 4589, 4590.

Under section 2 of this act, mentioned in this section, ante, § 4577, a former homestead entryman is entitled to an additional entry of lands contiguous to his former entry.

§ 4579. (Act March 2, 1907, c. 2527, § 1.) Benefits of Kinkaid Act extended to entries made within tract affected between April 28, 1904, and June 28, 1904.

All qualified entrymen who, during the period beginning on the twenty-eighth day of April, nineteen hundred and four, and ending on the twenty-eighth day of June, nineteen hundred and four, made homestead entry in the State of Nebraska within the area affected by an Act entitled “An Act to amend the homestead laws as to certain unappropriated and unreserved public lands in Nebraska,” approved April twenty-eighth, nineteen hundred and four, shall be entitled to all the benefits of said Act as if their entries had been made prior or subsequent to the above-mentioned dates, subject to all existing rights. (34 Stat. 1224.)

This section and the two sections next following were an act entitled “An act relating to the entry and disposition of certain lands in the State of Nebraska.”

Act April 28, 1904, c. 1801, mentioned in this and said other sections of this act, was the Kinkaid Act, set forth ante, §§ 4579-4578.

§ 4580. (Act March 2, 1907, c. 2527, § 2.) Benefits of military service extended to entries under the Kinkaid Act.

The benefits of military service in the Army or Navy of the United States granted under the homestead laws shall apply to entries made under the aforesaid act approved April twenty-eighth, nineteen hundred and four, and all homestead entries hereafter made within the territory described in the aforesaid act shall be subject to all the provisions thereof. (34 Stat. 1224.)

See notes to section 1 of this act, ante, § 4579.

§ 4581. (Act March 2, 1907, c. 2527, § 3.) Isolated tracts within limits affected by the Kinkaid Act to be sold; limitation of amount.

Within the territory described in said Act approved April twenty-eighth, nineteen hundred and four, it shall be lawful for the Secretary of the Interior to order into market and sell under the pro-
visions of the laws providing for the sale of isolated or discon-
ected tract or parcels of land any isolated or disconnected tract not
exceeding three quarter sections in area: Provided that not more
than three quarter sections shall be sold to any one person. (34
Stat. 1224.)

See notes to section 1 of this act, ante, § 4579.

§ 4582. (Act Aug. 24, 1912, c. 371.) Determination of qualifica-
tions of entrymen making additional entries upon Nebraska
arid lands.

The qualifications of a former homestead entryman who has
heretofore been permitted to make an additional or another entry
under the Act entitled "An Act to amend the homestead laws as
to certain unappropriated and unreserved public lands in Nebraska,"
approved April twenty-eighth, nineteen hundred and four, shall
be determined by the qualifications, except as to citizenship, pos-
sessed on the date of his first entry in all cases where the rights of
third persons shall not have intervened and the additional or sec-
ond entry has not been canceled. (37 Stat. 499.)

This was an act entitled "An act for the relief of certain homesteaders in
Nebraska."
Act April 28, 1904, c. 1801. mentioned in this section, was the Kinkaid
Act, set forth ante, §§ 4576-4578.

§ 4583. (Act June 5, 1900, c. 716, § 2.) Additional entry after com-
mutation of former entry.

Any person who has heretofore made entry under the home-
stead laws and commuted same under provisions of section twenty-
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-
hundred and one of the Revised Statutes shall not be allowed
of an entry made under this section of this Act. (31 Stat. 269.)

This section was part of an act entitled "An act for the relief of the Colo-
rado Co-operative Colony, to permit second homesteads in certain cases, and for
other purposes," cited above.

Section 1 of the act extended the time for making final proof and payment
for lands located under the desert-land laws by certain named members of the
Colorado Co-operative Colony for a period of three years. It is omitted as
temporary merely, and local.

Section 3 of the act is set forth post, § 4584.
R. S. § 2301 mentioned in this section, is set forth post, § 4580.

Provisions restricting cancellation of homestead entries made under this
section, on the ground that the former entry was commuted under Act June
16, 1880, c. 227, § 2, and reinstating entries canceled on such ground, were
made by Act May 29, 1908, c. 220, § 10, 35 Stat. 467. They are omitted as
temporary merely, and executed.

§ 4584. (Act June 5, 1900, c. 716, § 3.) Additional entry after loss
or forfeiture of former entry; purchasers of Flathead Indian
lands.

Any person who prior to the passage of this Act, has made entry
under the homestead laws, but from any cause has lost or for-
feited the same shall be entitled to the benefits of the homestead
(1886)
laws as though such former entry had not been made. Provided, that persons who purchased land under and in accordance with the terms of an Act entitled "An Act to provide for the sale of lands patented to certain members of the Flathead band of Indians in the Territory of Montana, and for other purposes," approved March second, eighteen hundred and eighty-nine, shall not be held to have impaired or exhausted their homestead rights by or on account of any such purchase. (31 Stat. 270.)

See notes to section 2 of this act, ante, § 4582.

§ 4585. (Act March 3, 1879, c. 191.) Entries within limits of railroad grants; extent; additional entries.

From and after the passage of this act, the even sections within the limits of any grant of public lands to any railroad company, or to any military road company, or to any State in aid of any railroad or military road, shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler, and any person who has, under existing laws, taken a homestead on any even section within the limits of any railroad or military road land-grant, and who, by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoined the land embraced in his original entry, if such additional land be subject to entry; or if such person so elect, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the surrender and cancellation of his original entry, shall be permitted so to do without payment of fees and commissions; and the residence and cultivation of such person upon and of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five years' residence and cultivation required by law: Provided, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year. (20 Stat. 472.)

This was an act entitled "An act to grant additional rights to homestead settlers on public lands within railroad limits."

Provisions similar to those of this act, relating to odd sections in certain States, were made by Act July 1, 1879, c. 60, post, § 4586.

The lands covered by the additional entry under this act were to be patented without further cost or proof of settlement, etc., by Act May 6, 1883, c. 88, post, § 4687.

§ 4586. (Act July 1, 1879, c. 60.) Entries within the limits of railroad grants; extent; additional entries.

From and after the passage of this act the odd sections within the limits of any grant of public lands to any railroad company in the States of Missouri and Arkansas, or to such States respectively, in aid of any railroad where the even sections have been granted to and received by any railroad company or by such States (1887)
§ 4586. THE PUBLIC LANDS (Tit. 32)

respectively in aid of any railroad shall be open to settlers under the homestead laws to the extent of one hundred and sixty acres to each settler; and any person who has under existing laws taken a homestead on any section within the limits of any railroad grant in said States, and who by existing laws shall have been restricted to eighty acres, may enter under the homestead laws an additional eighty acres adjoining the land embraced in his original entry, if such additional land be subject to entry; or if such person so select, he may surrender his entry to the United States for cancellation, and thereupon be entitled to enter lands under the homestead laws the same as if the surrendered entry had not been made. And any person so making additional entry of eighty acres, or new entry after the cancellation of his original entry, shall be permitted to do so without payment of fees or commissions; and the residence of such person upon and cultivation of the land embraced in his original entry shall be considered residence and cultivation for the same length of time upon and of the land embraced in his additional or new entry, and shall be deducted from the five year's residence and cultivation required by law: Provided, That in no case shall patent issue upon an additional or new homestead entry under this act until the person has actually, and in conformity with the homestead laws, occupied, resided upon, and cultivated the land embraced therein at least one year. (21 Stat. 46.)

This was an act entitled "An Act to grant additional rights to homestead settlers on public lands within railroad limits in the States of Missouri and Arkansas."

Provisions similar to those of this act, relating to even sections, were made by Act March 3, 1879, c. 191, ante, § 4585.

The lands covered by the additional entry under this act were to be patented without further cost or proof of settlement, etc., by Act May 6, 1886, c. 88, post, § 4587.

§ 4587. (Act May 6, 1886, c. 88.) Entries within limits of railroad grants; patents for additional entries.

All homestead settlers on public lands within the railway limits restricted to less than one hundred and sixty acres of land, who have heretofore made or may hereafter make the additional entry allowed either by the act approved March third, eighteen hundred and seventy-nine, or the act approved July first, eighteen hundred and seventy-nine, after having made final proof of settlement and cultivation under the original entry, shall be entitled to have the lands covered by the additional entry patented without any further cost or proof of settlement and cultivation. (24 Stat. 22.)

This was an act entitled "An Act to protect homestead settlers within railway limits and for other purposes."

Act March 3, 1879, c. 191, and Act July 1, 1879, c. 90, mentioned in this act, are set forth ante, §§ 4585, 4586.

(R. S. § 2299. Superseded.)

This section provided that nothing contained in this chapter should be so construed as to impair or interfere with existing pre-emption rights, and also that all persons who filed their applications for a pre-emption right prior to May 20, 1892, should be entitled to all the privileges of this chapter. The first provision was superseded by the repeal of the pre-emption laws by Act (1888)
§ 4588. (R. S. § 2300.) What minors may have the privileges of this chapter.

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

Act May 20, 1862, c. 75, § 6, 12 Stat. 393.

§ 4589. (R. S. § 2301, as amended, Act March 3, 1891, c. 561, § 6.)

Payment before expiration of five years; rights of applicant.

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.


This section, as originally enacted, was as follows:

"Nothing in this chapter shall be so construed as to prevent any person who has availed 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 before the expiration of the five years, and obtaining a patent therefor from the Government, as in other cases directed by law, on making proof of settlement and cultivation as provided by law, granting pre-emption rights."

It was amended by Act March 3, 1891, c. 561, § 6, cited above, to read as set forth here, except for the omission of a provision, local in its nature, added at the end of the section by the amendment, that the section should apply to lands on the ceded portion of the Sioux Reservation by Act March 2, 1889, c. 406, 25 Stat. 888, in South Dakota, but should not relieve said settlers from any payments required by law. This provision was amended by adding, after the words "South Dakota," the words "and in the State of Nebraska," by Act Nov. 1, 1883, c. 7, 25 Stat. 4.

The law in force in 1889 governing the commutation of homestead entries, before the amendment mentioned above, was made applicable to commutation of entries by settlers whose former entries on Northern Pacific Railroad indemnity lands had been canceled, by a provision of Act June 3, 1896, c. 316, § 1, 29 Stat. 245, which act allowed such settlers to make new entries under the homestead laws.

The affidavit required by R. S. § 2262, before entry for pre-emption, and by this section, was allowed to be made before the clerk of the county court or of any court of record of the county in which the lands were situated, or, if they were situated in an unorganized county, in a similar manner in any adjacent county, by Act June 9, 1880, c. 164, 21 Stat. 109, which was entitled as an act to amend said two sections. Its provisions were superseded, by the subsequent amendment of R. S. § 2294 by Act March 11, 1902, c. 182, as to the officers before whom such affidavits, etc., might be made. R. S. § 2294, as so amended, is set forth ante, § 4546.

All settlers under the homestead laws upon agricultural public lands, opened to settlement, acquired prior to May 17, 1900, by treaty or agreement from Indian tribes, who resided upon the track entered, in good faith, for the period required by existing law, were to be entitled to a patent therefor upon the
§ 4589. THE PUBLIC LANDS (Tit. 32)

payment to the local land officers of the usual and customary fees only, and
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 then fixed by existing
laws, remained in full force and effect by Act May 17, 1900, c. 479, § 1, 31
Stat. 179.

The provisions of Rev. St. § 2301 were extended to all settlers on lands un-
der this act, by Act Jan. 20, 1901, c. 180, 31 Stat. 740. Said settlers, how-
ever, were required to pay the price provided in the law under which the
original entry was made.

The provisions of this section were not to apply to entries made by Indians
who renounced their tribal relations, by Act March 3, 1875, c. 131, § 15,
post, § 4011.

The certificates of location or scrip required to be issued in certain cases
where claimants of lands in Florida, Louisiana, and Missouri had been ad-
judged entitled to the land and the land had been disposed of were receivable
in commutation of homestead entries, by Act Jan. 28, 1879, c. 30, § 2, post,
§ 5102.

Premature commutations, without fraud, were confirmed by Act June 3,
1896, c. 312, § 1, 29 Stat. 197, and all commutations of homestead entries
were to be allowed after 14 months from date of settlement, by section 2 of
that act, post, § 4590.

The commutation provisions of the homestead law are not to apply to en-
tries under the Kinkaid Act of April 28, 1904, c. 1801, which provided for
entries of not to exceed 640 acres within certain boundaries in Nebraska, by
section 3 of that act, ante, § 4578.

Commutation under the provisions of R. S. § 2301, was not allowed of an
entry under Act April 28, 1904, c. 1776, which allowed a homestead entry
after a former unperfected entry, and an additional entry of lands contiguous
to a former entry of less than one quarter section, by section 3 of that act,
ante, § 4562.

No enlarged homestead entry of lands designated as not irrigable, made un-
der Act Feb. 19, 1909, c. 160, or under Act June 17, 1910, c. 298, was to be
commuted, by section 5 of each of said acts, ante, §§ 4507, 4573.

The commutation provisions of the homestead laws were not to apply to
entries under the Reclamation Act of June 17, 1902, c. 1093, which provided
for the construction of irrigation works for the reclamation of arid lands,
by a proviso annexed to section 3 of that act, post, § 4702.

Repayment of excess moneys paid on final proof or commutation was pro-
vided for by Act March 2, 1907, c. 2588, ante, § 4542, and Act March 26, 1908,
c. 102, § 2, set forth ante, § 4492.

Provisions that no final certificate issued upon proof under the commutation
provisions of the homestead laws prior to the passage of the act should be
canceled solely upon the ground of insufficient residence, where the proof
showed that the entryman had resided upon and cultivated the land for eight
months within the year preceding the submission of the proof, and that a
certificate which had been canceled because of insufficient residence should,
upon application made within a year from the passage of the act, be rein-
stated, were made by Act May 29, 1908, c. 220, § 9, 35 Stat. 467. They are
omitted as temporary merely, and executed.

§ 4590. (Act June 3, 1896, c. 312, § 2.) Commutation allowable
after fourteen months.

All commutations of homestead entries shall be allowed after
the expiration of fourteen months from date of settlement. (29
Stat. 197.)

This section was part of an act entitled "An act relating to commutations
of homestead entries and to confirm such entries when commutation prove-
were received by local land offices prematurely."

Section 1 of the act confirmed final certificates of entry theretofore erro-
neously issued by the officers of a local land office upon premature com-
(1890)
tation proofs, where there had been six months actual residence upon the land in good faith prior to the commutation.

Section 3 repealed conflicting acts and parts of acts. Section 4 provided that the act should be in force from its passage.

Commutation after fourteen months from the date of settlement, on proof of settlement and of residence and cultivation for such period, was provided for by Rev. St. § 2301, as amended by Act March 3, 1891, c. 561, § 6, ante, § 4589.

§ 4591. (R. S. § 2302.) No distinction on account of race or color; mineral lands not subject to entry as homestead.

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.

Act June 21, 1866, c. 127, § 1, 14 Stat. 67.

(R. S. § 2303. Repealed.)

This section provided that all public lands in Alabama, Mississippi, Louisiana, Arkansas, and Florida, should be disposed of in no other manner than according to the terms and stipulations contained in the preceding provisions of the chapter. It was expressly repealed by Act July 4, 1876, c. 165, 19 Stat. 73.

The repealing act provided that it should not impair the rights of any homestead settler or render any land occupied by such settler subject to entry, and also provided that the lands affected by the act should be offered at public sale and not be subject to private entry until so offered. This last provision was superseded by the provision that no public lands of the United States, except abandoned military or other reservations, and certain other lands, the sale of which at public auction was authorized by acts of Congress of a special nature, having a local application, could be sold at public sale, of Act March 3, 1891, c. 561, § 9, post, § 4753.

§ 4592. (R. S. § 2304, as amended, Act March 1, 1901, c. 674.) Soldiers' and sailors' homestead.

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

(1891)
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.


This section was amended by Act March 1, 1901, c. 674, cited above, by inserting the provisions relating to soldiers, seamen, marines, and officers serving during the Spanish war or during the suppression of the insurrection of the Philippines, as set forth here.

The provisions of this section and of R. S. § 2305, post, § 4593, were made applicable to entries on particular ceded Indian lands, with various modifications and special provisions in the different acts, particularly as to the price of the lands and payment thereof, by statutes collected or referred to under chapter 101 of this Title, "Ceded Indian Reservations."

§ 4593. (R. S. § 2305, as amended, Act March 1, 1901, c. 674.)

Deduction of military and naval service from time, etc.

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

(1892)
died while in the service of the United States as hereinbefore described, the patent for such land shall issue.


This section was amended by Act March 1, 1901, c. 674, cited above, by adding, at the end of the section as originally enacted, the proviso, beginning with the words, "Provided, That in every case in which a settler on the public lands, etc., to the end of the section as set forth here.

Similar provisions, somewhat broader in scope, were made by Act June 16, 1898, c. 453, post, § 4604.

See note to R. S. § 2304, ante, § 4502.

### § 4594. (R. S. § 2306.) Persons who have entered less than 160 acres, rights of.

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

**Act June 8, 1872, c. 388, § 2, 17 Stat. 383.**

Subsequent provisions for the relief of settlers under this section whose entries or locations were canceled, or where the certificates on which such entries had been made were found erroneous or invalid, or had been sold or transferred, were made by Act June 16, 1898, c. 244, Res. April 18, 1904, No. 25, Act March 3, 1898, c. 208, and Act Aug. 18, 1894, c. 301, § 1, post, §§ 4585–4601.

Rights as to location of soldiers' certificates heretofore issued under this section were not affected by Act March 2, 1889, c. 381, § 6, which allowed an additional entry after final proof on former entry of less than one quarter section, by a proviso annexed to that section, ante, § 4580.

Other provisions for additional entries, after a former entry of less than 160 acres, were made by Act April 28, 1904, c. 1778, § 2, and Act April 28, 1899, c. 1801, § 2, ante, §§ 4561, 4577.

### § 4595. (Act June 16, 1880, c. 244, § 1.) Soldiers' and sailors' entries canceled; repayment of fees.

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

(1893)
§ 4595. The public lands (Tit. 32)

and shall be payable out of the appropriation to refund purchase-money on lands erroneously sold by the United States. (21 Stat. 287.)

This section and the three sections next following were an act entitled "An act for the relief of certain settlers on the public lands, and to provide for the repayment of certain fees, purchase money, and commissions paid on void entries of public lands."

No proof of loyalty was to be required in cases mentioned in this act, by Res. April 18, 1904, No. 25, post, § 4599.

R. S. § 2306, mentioned in this section, is set forth ante, § 4594.

§ 4596. (Act June 16, 1880, c. 244, § 2.) Homestead or other entries canceled or not confirmed; repayment of fees and purchase-money.

In all cases where homestead or timber-culture or desert-land entries or other entries of public lands have heretofore or shall hereafter be canceled for conflict, or where, from any cause, the entry has been erroneously allowed and cannot be confirmed, the Secretary of the Interior shall cause to be repaid to the person who made such entry, or to his heirs or assigns, the fees and commissions, amount of purchase money, and excesses paid upon the same upon the surrender of the duplicate receipt and the execution of a proper relinquishment of all claims to said land, whenever such entry shall have been duly canceled by the Commissioner of the General Land Office, and in all cases where parties have paid double-minimum price for land which has afterwards been found not to be within the limits of a railroad land grant, the excess of one dollar and twenty-five cents per acre shall in like manner be repaid to the purchaser thereof, or to his heirs or assigns. (21 Stat. 287.)

§ 4597. (Act June 16, 1880, c. 244, § 3.) Appropriation.

The Secretary of the Interior is authorized to make the payments herein provided for, out of any money in the Treasury not otherwise appropriated. (21 Stat. 287.)

§ 4598. (Act June 16, 1880, c. 244, § 4.) Rules by Commissioner of General Land Office; warrants for payments.

The Commissioner of the General Land Office shall make all necessary rules, and issue all necessary instructions, to carry the provisions of this act into effect; and for the repayment of the purchase money and fees herein provided for the Secretary of the Interior shall draw his warrant on the Treasury and the same shall be paid without regard to the date of the cancellation of the entries. (21 Stat. 287.)

§ 4599. (Res. April 18, 1904, No. 25.) Amendment of Act June 16, 1880, c. 244; proof of loyalty not to be required.

The provisions of "An Act for the relief of certain settlers on the public lands, and to provide for the payment of certain fees, purchase money, and commission paid on void entries of public lands," approved June sixteenth, eighteen hundred and eighty, shall be construed to abolish the necessity for proof of loyalty in the (1894)
cases mentioned in said Act, and no proof of loyalty shall be required in
the cases mentioned in said Act. (33 Stat. 589.)

Act June 16, 1880, c. 244, mentioned in this resolution, is set forth ante, §§
4595-4598.

§ 4600. (Act March 3, 1893, c. 208.) Soldiers' additional entries
invalid; commutation.

Where soldier's additional homestead entries have been made
or initiated upon certificate of the Commissioner of the General
Land Office of the right to make such entry, and there is no ad-
verse claimant, and such certificate is found erroneous or invalid
for any cause, the purchaser thereunder, on making proof of such
purchase, may perfect his title by payment of the Government price
for the land; but no person shall be permitted to acquire more than
one hundred and sixty acres of public land through the location of
any such certificate. (27 Stat. 593.)

This was one of several provisos annexed to the appropriation for surveys
of the public lands in the sundry civil appropriation act for the fiscal year
1894, cited above.

§ 4601. (Act Aug. 18, 1894, c. 301, § 1.) Soldiers' additional home-
stead certificates; sale.

All soldiers' additional homestead certificates heretofore issued
under the rules and regulations of the General Land Office un-
der section twenty-three hundred and six of the Revised Statutes
of the United States, or in pursuance of the decisions or instructions
of the Secretary of the Interior, of date March tenth, eighteen hun-
dred and seventy-seven, or any subsequent decisions or instructions
of the Secretary of the Interior or the Commissioner of the Gen-
eral Land Office, shall be, and are hereby, declared to be valid, not-
withstanding any attempted sale or transfer thereof; and where such
certificates have been or may hereafter be sold or transferred, such
sale or transfer shall not be regarded as invalidating the right, but
the same shall be good and valid in the hands of bona fide purchas-
ers for value; and all entries heretofore or hereafter made with such
certificates by such purchasers shall be approved, and patent shall
issue in the name of the assignees. (28 Stat. 397.)

This was a provision of the sundry civil appropriation act for the fiscal
year 1886, cited above.
R. S. § 2306, mentioned in this section, is set forth ante, § 4504.

§ 4602. (R. S. § 2307.) Widows and minor children of persons en-
titled to homestead, etc.

In case of the death of any person who would be entitled to a
homestead under the provisions of section twenty-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 en-
titled to all the benefits enumerated in this chapter, subject to all the
provisions as to settlement and improvements therein contained;
but if such person died during his term of enlistment, the whole term
(1895)
§ 4603. The Public Lands
(Tit. 32)

of his enlistment shall be deducted from the time heretofore required to perfect the title.

R. S. § 2304, mentioned in this section, is set forth ante, § 4592.

§ 4603. (R. S. § 2308.) Actual service in the Army or Navy equivalent to residence, etc.

Where a party at the date of his entry of a tract of land under the homestead laws, or subsequently thereto, was actually enlisted and employed in the Army or Navy of the United States, his services therein shall, in the administration of such homestead laws, be construed to be equivalent, to all intents and purposes, to a residence for the same length of time upon the tract so entered. And if his entry has been canceled by reason of his absence from such tract while in the military or naval service of the United States, and such tract has not been disposed of, his entry shall be restored; but if such tract has been disposed of, the party may enter another tract subject to entry under the homestead laws, and his right to a patent therefor may be determined by the proofs touching his residence and cultivation of the first tract and his absence therefrom in such service.


§ 4604. (Act June 16, 1898, c. 458.) Service of homestead settlers in Army or Navy in time of war equivalent to actual residence, etc.

In every case in which a settler on the public land of the United States under the homestead laws enlists or is actually engaged in the Army, Navy, or Marine Corps of the United States as private soldier, officer, seaman, or marine, during the existing war with Spain or during any other war in which the United States may be engaged, his services therein shall, in the administration of the homestead laws, be construed to be equivalent to all intents and purposes to residence and cultivation for the same length of time upon the tract entered or settled upon; and hereafter no contest shall be initiated on the ground of abandonment, nor allegation of abandonment sustained against any such settler, unless it shall be alleged in the preliminary affidavit or affidavits of contest, and proved at the hearing in cases hereafter initiated, that the settler's alleged absence from the land was not due to his employment in such service: Provided, That if such settler shall be discharged on account of wounds received or disability incurred in the line of duty, then the term of his enlistment shall be deducted from the required length of residence without reference to the time of actual service: Provided further, That 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. (30 Stat. 473.)

This was an act entitled "An act for the protection of homestead settlers who enter the military or naval service of the United States in time of war." Somewhat similar provisions were made by R. S. § 2306, as amended by Act March 1, 1901, c. 674, ante, § 4593.

(1896)
§ 4605. (R. S. § 2309.) Who may enter by agent.

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

R. S. § 2304, mentioned in this section, is set forth ante, § 4602.

§ 4606. (R. S. § 2310.) Chiefs, etc., of Stockbridge Munsee, homestead rights of.

Each of the chiefs, warriors, and heads of families of the Stockbridge Munsee tribes of Indians, residing in the county of Shawana, State of Wisconsin, may, under the direction of the Secretary of the Interior, enter a homestead and become entitled to all the benefits of this chapter, free from any fee or charge; and any part of their present reservation, which is abandoned for that purpose, may be sold, under the direction of the Secretary of the Interior, and the proceeds applied for the benefit of such Indians as may settle on homesteads, to aid them in improving the same.


More comprehensive provisions extending the benefit of the homestead laws to Indians abandoning tribal relations and to Indians located on public lands were made by Act March 3, 1875, c. 151, § 15, and Act July 4, 1884, c. 180, § 1, post, §§ 4611, 4612.

§ 4607. (R. S. § 2311.) Exemption of homestead of Stockbridge Munsees.

The homestead secured, by virtue of the preceding section, shall not be subject to any tax, levy, or sale; nor shall it be sold, conveyed, mortgaged, or in any manner incumbered, except upon the decree of the district court of the United States, as provided in the following section.


(R. S. § 2312. Transferred to Title XXV.)

This section provided that any of the chiefs, warriors or heads of families of the Stockbridge Munsees might be admitted to all the rights of citizenship by the district court in the manner therein provided. It is set forth under Title XXV, "Citizenship," ante, § 3950.

§ 4608. (Act June 13, 1902, c. 1080, § 1.) Homestead laws extended over former Ute Indian Reservation in Colorado; certain entries prohibited.

That the provisions of the homestead laws be, and are hereby, extended over and shall apply to the lands included within the limits of the former Ute Indian Reservation in Colorado not included in any forest reservation, in addition to the existing laws relating to cash entries thereon; Provided, That no selection or entry of lands in lieu of land included within a forest reservation or of soldiers' or

(1897)
sailors' additional homesteads shall be allowed within said limits. (32 Stat. 384.)

This section and the two sections next following were an act entitled "An act providing for free homesteads in the Ute Indian Reservation in Colorado."

§ 4609. (Act June 13, 1902, c. 1080, § 2.) Reimbursement of Ute Indian fund.

All sums of money that may be lost to the Ute Indian fund by reason of the passage of this Act shall be paid into the fund by the United States, and all moneys received by reason of the commutation of any homestead entry shall be credited to said Ute Indian fund. (32 Stat. 384.)

§ 4610. (Act June 13, 1902, c. 1080, § 3.) Lands on which the Government has improvements excepted from act.

No lands shall be included in any location or settlement under the provisions of this Act on which the United States Government has valuable improvements. (32 Stat. 384.)

§ 4611. (Act March 3, 1875, c. 131, § 15.) Indians abandoning tribal relations entitled to benefit of homestead laws.

Any Indian born in the United States, who is the head of a family, or who has arrived at the age of twenty-one years, and who has abandoned, or may hereafter abandon, his tribal relations, shall, on making satisfactory proof of such abandonment, under rules to be prescribed by the Secretary of the Interior, be entitled to the benefits of the act entitled "An act to secure homesteads on the public domain," approved May twentieth, eighteen hundred and sixty-two, and the acts amendatory thereof, except that the provisions of the eighth section of the said act shall not be held to apply to entries made under this act: Provided, however, That the title to lands acquired by any Indian by virtue hereof shall not be subject to alienation or incumbrance, either by voluntary conveyance or the judgment, decree, or order of any court, and shall be and remain inalienable for a period of five years from the date of the patent issued therefor: Provided, That any such Indian shall be entitled to his distributive share of all annuities, tribal funds, lands, and other property, the same as though he had maintained his tribal relations; and any transfer, alienation, or incumbrance of any interest he may hold or claim by reason of his former tribal relations shall be void. (18 Stat. 420.)

This section was part of the deficiency appropriation act for the fiscal year 1875, cited above.

Section 16 of that act confirmed entries made by Indians prior to the passage of the act, or subsequent thereto and prior to the promulgation of the regulations to be established by the Secretary of the Interior under the authority of this section. It is omitted, as temporary merely, and executed.

Act May 20, 1882, c. 75, mentioned in this section, was incorporated, with the acts amendatory thereof, into this chapter of the Revised Statutes; section 8 of that act, excepted by this section, was incorporated into R. S. § 2301, ante, § 4580.

Indians located on public lands may avail themselves of the homestead laws by a provision of Act July 4, 1884, c. 180, § 1, post, § 4612.

No distinction is to be made in the construction or execution of this chapter, on account of race or color, by R. S. § 2302, ante, § 4591.

(1898)
§ 4612. (Act July 4, 1884, c. 180, § 1.) Indians located on public lands entitled to benefit of homestead laws; patents.

Such Indians as may now be located on public lands, or as may, under the direction of the Secretary of the Interior, or otherwise, hereafter, so locate may avail themselves of the provisions of the homestead laws as fully and to the same extent as may now be done by citizens of the United States; and to aid such Indians in making selections of homesteads and the necessary proofs at the proper land offices, one thousand dollars, or so much thereof as may be necessary, is hereby appropriated; but no fees or commissions shall be charged on account of said entries or proofs. All patents therefor shall be of the legal effect, and declare that the United States does and will hold the land thus entered for the period of twenty-five years, in trust for the sole use and benefit of the Indian by whom such entry shall have been made, or, in case of his decease, of his widow and heirs according to the laws of the State or Territory where such land is located, and that at the expiration of said period the United States will convey the same by patent to said Indian, or his widow and heirs as aforesaid, in fee, discharged of said trust and free of all charge or incumbrance whatsoever. (23 Stat. 96.)

This was a provision of the Indian appropriation act for the fiscal year 1885, cited above.

(R. S. §§ 2313–2316. Obsolete.)

These sections of the Revised Statutes incorporated the provisions of Act June 10, 1872, c. 424, §§ 2–4, 17 Stat. 381, which provided for the opening of the unoccupied lands of the Ottawa and Chippewa Indian reservation in Michigan to homestead entry by the Indians and others in accordance with the provisions of the act. By its terms the act was limited to entries made within six months of its passage, and it has therefore become obsolete.

Subsequent provisions relating to homestead entries, etc., of the lands mentioned in Rev. St. §§ 2313–2316, were made by Act March 3, 1873, c. 188, 18 Stat. 516, amended by Act May 23, 1876, c. 105, 19 Stat. 55.

Provisions relating to homestead entries on lands acquired from the Indians and opened for settlement or other disposition are collected or referred to under chapter 101 of this Title, "Ceded Indian Reservations."

(R. S. § 2317. Superseded.)

This section provided that every person having a homestead, under this chapter, who, at the end of the third year of his residence thereon, should have had under cultivation, for two years, one acre of timber, the trees not more than twelve feet apart, and in a good, thrifty condition, for each sixteen acres of such homestead, should, on due proof, receive his patent for such homestead; incorporating provisions of Act March 3, 1873, c. 277, § 4, 17 Stat. 606, part of the act to encourage the growth of timber on the western prairies. These provisions were re-enacted in the amendment of that act by Act March 13, 1874, c. 55, 18 Stat. 21, but were omitted from Act June 14, 1878, c. 190, 20 Stat. 113, which amended the act last mentioned to read as there set forth, and was itself repealed by Act March 3, 1891, c. 561, § 1, post, § 6116.

(1899)
CHAPTER SIX
Mineral Lands and Mining Resources

Sec. 4613. Mineral lands reserved.
4615. Length of mining-claims upon veins or lodes.
4616. Proof of citizenship.
4617. Affidavit of citizenship, before whom made.
4618. Locators' rights of possession and enjoyment.
4619. Owners of tunnels, rights of.
4620. Regulations made by miners.
4621. Expenditure of money on tunnels.
4622. Patents for mineral lands, how obtained.
4623. Adverse claim; proceedings on.
4624. Adverse claim; oath of claimant, before whom made.
4625. Adverse claim; findings by jury; costs.
4626. Description of vein claims on surveyed and unsurveyed lands.
4627. Pending applications; existing rights.
4628. Conformity of placer-claims to surveys, limit of.
4629. Subdivisions of ten-acre tracts; maximum of placer locations.
4630. Conformity of placer-claims to surveys; limitation of claims.
4631. What evidence of possession, etc., to establish a right to a patent.
4632. Proceedings for patent for placer-claim, etc.
4633. Entry of building stone lands under placer mining laws.
4634. Previous provisions not repealed.
4635. Entry of petroleum or other mineral oil lands under placer mining laws.
4636. Assessment work on contiguous oil lands, located as placer mining claims, of same owner.
4637. Patents for oil or gas lands, located or claimed under mining laws, not to be denied because of transfer before discovery thereon of oil or gas.
4638. Public lands in Utah, withdrawn or classified as oil lands, open to entries under the homestead and desert land laws, to selection by the State under grants of Congress or the Carey Act, and to withdrawal under the Reclamation Act; reservation of oil and gas; limitation of desert land entries; previous entries validated.
4639. Applications for oil lands in Utah under this act.
4640. Patent for oil lands in Utah; reservation of oil and gas; damages caused by prospecting or removal of oil and gas.
4641. Entry of saline lands under placer mining laws.
4642. Surveyor-general to appoint surveyors of mining-claims, etc.
4643. Verification of affidavits, etc.
4644. Where veins intersect, etc.
4645. Patents for non-mineral lands, etc.
4646. What conditions of sale may be made by local legislature.
4647. Vested rights to use of water for mining, etc.; right of way for canals.
4648. Patents, pre-emptions, and homesteads subject to vested and accrued water-rights.
4649. Mineral lands in which no valuable mines are discovered open to homesteads.
4651. Additional land districts and officers; power of the President to provide.
4652. Provisions of this chapter not to affect certain rights.
4654. Mineral lands in Missouri and Kansas; disposal as agricultural lands.
4655. Mineral lands in Alabama; disposal as agricultural lands.
4656. Reclassification of lands in Alabama, as agricultural or mineral lands.
4657. Lands designated as agricultural to be subject to homestead entry.
4658. Grants of lands to States or corporations not to include mineral lands.

(1900)
§ 4613. (R. S. § 2318.) Mineral lands reserved.

In all cases lands valuable for minerals shall be reserved from sale, except as otherwise expressly directed by law.

Act July 4, 1866, c. 166, § 5, 14 Stat. 86.

All lands in Oklahoma were declared to be non-mineral in character, and proof of that fact was not to be required as a condition precedent to final entry thereon, by Act March 8, 1891, c. 543, § 16, post, § 5027.


Town-site entries by incorporated towns and cities on mineral lands, but not to include mining rights, were provided for by Act March 3, 1891, c. 561, § 16, post, § 4769.

The felling and removal of timber on public mineral lands for mining and other purposes was permitted by Act June 3, 1878, c. 150, post, §§ 4989-4991.

The provisions for the sale of public lands chiefly valuable for timber, but unfit for cultivation, of Act June 3, 1878, c. 151, as amended by Act Aug. 4, 1892, c. 375, § 2, post, §§ 4671-4673, were not to defeat any bona fide claim under any law of the United States, or to authorize the sale of any mining claim, or the improvements of any bona fide settler on lands containing gold, silver, cinnabar, copper, or coal, by a proviso annexed to section 1 of said act, post, § 4671.

Lands embraced within the limits of any forest reservation, which, upon investigation, were found to be mineral in character, were to be restored to the public domain, by Act June 4, 1897, c. 2, § 1, par. 12, post, § 5353, and all mineral lands in any forest reservations, which are subject to entry under the existing mining laws, shall continue to be subject to such location and entry, notwithstanding any provisions therein contained.

Provisions relating to the disposal of mineral or coal lands within abandoned military reservations were made by Act July 5, 1894, c. 214, § 5, post, § 6006.

The Pikes Peak, Plum Creek, and South Platte Forest Reserves in Colorado were opened to the location of mining claims for gold, silver, and cinnabar, by Act Feb. 20, 1896, c. 28, 29 Stat. 11.

The public lands ceded by the Shoshone and Bannock Indians of the Fort (1901)
§ 4613  THE PUBLIC LANDS  (Tit. 32

Hall Reservation, Idaho, were opened to settlement under the mining laws, by Act June 6, 1900, c. 813, § 5, 31 Stat. 676.

Persons entering any of the public lands with a view to occupation, entry, or settlement under any of the land laws were restricted to 320 acres in the aggregate, by Act Aug. 30, 1890, c. 837, § 1, ante, § 4558. By Act March 3, 1891, c. 561, § 17, ante, § 4559, this provision was not to be construed to include lands entered or sought to be entered under the mineral land laws.

The mining laws were extended to Alaska by Act June 6, 1900, c. 786, § 27, post, § 5066.

Provisions, similar to those of this chapter, for the reservation from sale of public lands in the Philippine Islands valuable for minerals, and the purchase of mineral deposits and the location of mining claims thereon, were made by the act temporarily to provide for the administration of the affairs of civil government in the Philippine Islands, and for other purposes, Act July 1, 1902, c. 1369, §§ 20-62, ante, §§ 3830-3872.

The reclassification of the public lands of Alabama, to determine which of said lands were in fact agricultural lands and which mineral lands, was authorised by Act March 27, 1906, c. 1347, post, §§ 4656, 4657.

§ 4614. (R. S. § 2319.) Mineral lands open to purchase by citizens.

All valuable mineral deposits in lands belonging to the United States, both surveyed and unsurveyed, are hereby declared to be free and open to exploration and purchase, and the lands in which they are found to occupation and purchase, by citizens of the United States and those who have declared their intention to become such, under regulations prescribed by law, and according to the local customs or rules of miners in the several mining-districts, so far as the same are applicable and not inconsistent with the laws of the United States.

Act May 10, 1872, c. 152, § 1, 17 Stat. 91.

Lands withdrawn from settlement, location, sale, etc., and reserved for water-power sites, irrigation, classification, etc., under Act June 25, 1910, c. 421, were to be open to exploration, discovery, occupation, and purchase, under the mining laws, as to minerals other than coal, oil, gas, and phosphates, by section 2 of said act, ante, § 4524.

§ 4615. (R. S. § 2320.) Length of mining-claims upon veins or lodes.

Mining-claims upon veins or lodes of quartz or other rock in place bearing gold, silver, cinnabar, lead, tin, copper, or other valuable deposits, heretofore located, shall be governed as to length along the vein or lode by the customs, regulations, and laws in force at the date of their location. A mining-claim located after the tenth day of May, eighteen hundred and seventy-two, whether located by one or more persons, may equal, but shall not exceed, one thousand five hundred feet in length along the vein or lode; but no location of a mining-claim shall be made until the discovery of the vein or lode within the limits of the claim located. No claim shall extend more than three hundred feet on each side of the middle of the vein at the surface, nor shall any claim be limited by any mining regulation to less than twenty-five feet on each side of the middle of the vein at the surface, except where adverse rights existing on the tenth day of May, eighteen hundred and seventy-two, render such limitation necessary. The end-lines of each claim shall be parallel to each other.

Act May 10, 1872, c. 152, § 2, 17 Stat. 91.

(1902)
§ 4616. (R. S. § 2321.) Proof of citizenship.

Proof of citizenship, under this chapter, may consist, in the case of an individual, of his own affidavit thereof; in the case of an association of persons unincorporated, of the affidavit of their authorized agent, made on his own knowledge, or upon information and belief; and in the case of a corporation organized under the laws of the United States, or of any State or Territory thereof, by the filing of a certified copy of their charter or certificate of incorporation.

Act May 10, 1872, c. 152, § 7, 17 Stat. 94.
The affidavit mentioned in this section may be made before the clerk of any court of record or notary public of any State or Territory, by Act April 26, 1882, c. 106, § 2, post, § 4617.

§ 4617. (Act April 26, 1882, c. 106, § 2.) Affidavit of citizenship, before whom made.

Applicants for mineral patents, if residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit required for proof of citizenship before the clerk of any court of record or before any notary public of any State or Territory. (22 Stat. 49.)

This section was part of an act to amend R. S. § 2326, in regard to mineral lands, and for other purposes.
Section 1 of the act is set forth post, § 4624.

§ 4618. (R. S. § 2322.) Locators' rights of possession and enjoyment.

The locators of all mining locations heretofore made or which shall hereafter be made, on any mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no adverse claim exists on the tenth day of May, eighteen hundred and seventy-two, so long as they comply with the laws of the United States, and with State, territorial, and local regulations not in conflict with the laws of the United States governing their possessory title, shall have the exclusive right of possession and enjoyment of all the surface included within the lines of their locations, and of all veins, lodes, and ledges throughout their entire depth, the top or apex of which lies inside of such surface-lines extended downward vertically, although such veins, lodes, or ledges may so far depart from a perpendicular in their course downward as to extend outside the vertical side-lines of such surface locations. But their right of possession to such outside parts of such veins or ledges shall be confined to such portions thereof as lie between vertical planes drawn downward as above described, through the end-lines of their locations, so continued in their own direction that such planes will intersect such exterior parts of such veins or ledges. And nothing in this section shall authorize the locator or possessor of a vein or lode which extends in its downward course beyond the vertical lines of his claim to enter upon the surface of a claim owned or possessed by another.

Act May 10, 1872, c. 152, § 3, 17 Stat. 91.

§ 4619. (R. S. § 2323.) Owners of tunnels, rights of.

Where a tunnel is run for the development of a vein or lode, or for the discovery of mines, the owners of such tunnel shall have the (1903)
right of possession of all veins or lodes within three thousand feet from the face of such tunnel on the line thereof, not previously known to exist, discovered in such tunnel, to the same extent as if discovered from the surface; and locations on the line of such tunnel of veins or lodes not appearing on the surface, made by other parties after the commencement of the tunnel, and while the same is being prosecuted with reasonable diligence, shall be invalid; but failure to prosecute the work on the tunnel for six months shall be considered as an abandonment of the right to all undiscovered veins on the line of such tunnel.


§ 4620. (R. S. § 2324, as amended, Act Jan. 22, 1880, c. 9, § 2.)

Regulations made by miners.

The miners of each mining-district may make regulations not in conflict with the laws of the United States, or with the laws of the State or Territory in which the district is situated, governing the location, manner of recording, amount of work necessary to hold possession of a mining-claim, subject to the following requirements: The location must be distinctly marked on the ground so that its boundaries can be readily traced. All records of mining-claims hereafter made shall contain the name or names of the locators, the date of the location, and such a description of the claim or claims located by reference to some natural object or permanent monument as will identify the claim. On each claim located after the tenth day of May, eighteen hundred and seventy-two, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year. On all claims located prior to the tenth day of May, eighteen hundred and seventy-two, ten dollars' worth of labor shall be performed or improvements made by the tenth day of June, eighteen hundred and seventy-four, and each year thereafter, for each one hundred feet in length along the vein until a patent has been issued therefor; but where such claims are held in common, such expenditure may be made upon any one claim; and upon a failure to comply with these conditions, the claim or mine upon which such failure occurred shall be open to relocation in the same manner as if no location of the same had ever been made, provided that the original locators, their heirs, assigns, or legal representatives, have not resumed work upon the claim after failure and before such location. Upon the failure of any one of several co-owners to contribute his proportion of the expenditures required hereby, the co-owners who have performed the labor or made the improvements may, at the expiration of the year, give such delinquent co-owner personal notice in writing or notice by publication in the newspaper published nearest the claim, for at least once a week for ninety days, and if at the expiration of ninety days after such notice in writing or by publication such delinquent should fail or refuse to contribute his proportion of the expenditure required by this section, his interest in the claim shall become the property of his co-owners who have made the required expenditures. Provided, That the period within which the work re-
required to be done annually on all unpatented mineral claims shall commence on the first day of January succeeding the date of location of such claim, and this section shall apply to all claims located since the tenth day of May, anno Domini eighteen hundred and seventy-two.


This section was amended by Act Feb. 11, 1875, c. 41, post, § 4021, by providing that, where a tunnel is run for the purpose of developing a lode, the money so expended shall be considered as expended on the lode. It was further amended by Act Jan. 22, 1880, c. 9, § 2, cited above, by adding, at the end of the section as originally enacted, the proviso as set forth here.

The provisions of this section which require that on each claim located after May 10, 1872, and until patent has been issued therefor, not less than $100 worth of labor shall be performed or improvements made during each year, were not to apply to persons who enlist in the Army or Navy for service in the war with Spain and no mining claim owned by such person was to be subject to forfeiture for non-performance of the annual assessments until six months after the owner was mustered out of the service, or if he should not survive the war, then six months after his death in the service, by Act July 2, 1898, c. 563, § 1, 30 Stat. 651. Section 2 of that act required those desiring to take advantage thereof to file a notice of his enlistment and his desire to hold the claim under the act; and section 3 provided that, if such enlisted person had a co-owner who failed to do the proportion of the assessment work represented by his interest, such interest should be open to relocation. The act is omitted, as temporary merely.

The provisions of this section, relating to the labor or improvements required on mining claims, were modified as to mining claims in Alaska by Act March 2, 1907, c. 2559, post, §§ 5051, 5052.

§ 4621. (Act Feb. 11, 1875, c. 41.) Expenditure of money on tunnels.

Section two thousand three hundred and twenty-four of the revised statutes, be, and the same is hereby, amended so that where a person or company has or may run a tunnel for the purposes of developing a lode or lodes, owned by said person or company, the money so expended in said tunnel shall be taken and considered as expended on said lode or lodes, whether located prior to or since the passage of said act; and such person or company shall not be required to perform work on the surface of said lode or lodes in order to hold the same as required by said act. (18 Stat. 315.)

This was an act entitled "An act to amend section twenty-three hundred and twenty-four of the Revised Statutes of the United States relating to mining claims."

R. S. § 2324, mentioned in this act, is set forth ante, § 4620.

§ 4622. (R. S. § 2325, as amended, Act Jan. 22, 1880, c. 9, § 2.) Patents for mineral lands, how obtained.

A patent for any land claimed and located for valuable deposits may be obtained in the following manner: Any person, association, or corporation authorized to locate a claim under this chapter, having claimed and located a piece of land for such purposes, who has, or have, complied with the terms of this chapter, may file in the proper land-office an application for a patent, under oath, showing such compliance, together with a plat and field-notes of the claim or claims in common, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of the

Comp.St.'13—120

(1905)
claim or claims, which shall be distinctly marked by monuments on
the ground, and shall post a copy of such plat, together with a notice
of such application for a patent, in a conspicuous place on the land
embraced in such plat previous to the filing of the application for a
patent, and shall file an affidavit of at least two persons that such no-
tice has been duly posted, and shall file a copy of the notice in such
land-office, and shall thereupon be entitled to a patent for the land,
in the manner following: The register of the land-office, upon the
filing of such application, plat, field-notes, notices, and affidavits,
shall publish a notice that such application has been made, for the
period of sixty days, in a newspaper to be by him designated as pub-
lished nearest to such claim; and he shall also post such notice in
his office for the same period. The claimant at the time of filing
this application, or at any time thereafter, within the sixty days of
publication, shall file with the register a certificate of the United
States surveyor-general that five hundred dollars' worth of labor has
been expended or improvements made upon the claim by himself or
grantors; that the plat is correct, with such further description by
such reference to natural objects or permanent monuments as shall
identify the claim, and furnish an accurate description, to be incor-
porated in the patent. At the expiration of the sixty days of pub-
cation the claimant shall file his affidavit, showing that the plat and
notice have been posted in a conspicuous place on the claim during
such period of publication. If no adverse claim shall have been filed
with the register and the receiver of the proper land-office at the ex-
piration of the sixty days of publication, it shall be assumed that the
applicant is entitled to a patent, upon the payment to the proper
officer of five dollars per acre, and that no adverse claim exists; and
thereafter no objection from third parties to the issuance of a pat-
ent shall be heard, except it be shown that the applicant has failed to
comply with the terms of this chapter. Provided, That where the
claimant for a patent is not a resident of or within the land district
wherein the vein, lode, ledge, or deposit sought to be patented is
located, the application for patent and the affidavits required to be
made in this section by the claimant for such patent may be made by
his, her, or its authorized agent, where said agent is conversant with
the facts sought to be established by said affidavits. And provided,
That this section shall apply to all applications now pending for pat-
ents to mineral lands.

2, 21 Stat. 61.

This section was amended by Act Jan. 22, 1880, c. 9, cited above, by adding
at the end of the section as originally enacted the proviso as set forth here.

The times allowed for filing adverse claims and for instituting adverse
suits thereon, under this section and R. S. § 2326, post, § 4625, were extend-

§ 4623. (R. S. § 2326.) Adverse claim, proceedings on.
Where an adverse claim is filed during the period of publication,
it shall be upon oath of the person or persons making the same, and
shall show the nature, boundaries, and extent of such adverse claim,
and all proceedings, except the publication of notice and making and

(1906)
filing of the affidavit thereof, shall be stayed until the controversy shall have been settled or decided by a court of competent jurisdiction, or the adverse claim waived. It shall be the duty of the adverse claimant, within thirty days after filing his claim, to commence proceedings in a court of competent jurisdiction, to determine the question of the right of possession, and prosecute the same with reasonable diligence to final judgment; and a failure so to do shall be a waiver of his adverse claim. After such judgment shall have been rendered, the party entitled to the possession of the claim, or any portion thereof, may, without giving further notice, file a certified copy of the judgment-roll with the register of the land-office, together with the certificate of the surveyor-general that the requisite amount of labor has been expended or improvements made thereon, and the description required in other cases, and shall pay to the receiver five dollars per acre for his claim, together with the proper fees, whereupon the whole proceedings and the judgment-roll shall be certified by the register to the Commissioner of the General Land-Office, and a patent shall issue thereon for the claim, or such portion thereof as the applicant shall appear, from the decision of the court, to rightly possess. If it appears from the decision of the court that several parties are entitled to separate and different portions of the claim, each party may pay for his portion of the claim, with the proper fees, and file the certificate and description by the surveyor-general, whereupon the register shall certify the proceedings and judgment-roll to the Commissioner of the General Land-Office, as in the preceding case, and patents shall issue to the several parties according to their respective rights. Nothing herein contained shall be construed to prevent the alienation of the title conveyed by a patent for a mining-claim to any person whatever.

This section was amended by Act March 3, 1881, c. 140, post, § 4625, and Act April 26, 1882, c. 106, § 1, post, § 4624.
The times allowed for filing adverse claims and for instituting adverse suits thereon, under R. S. § 2325, ante, § 4622, and this section, were extended, in Alaska, by Act June 7, 1910, c. 265, post, § 5063.

§ 4624. (Act April 26, 1882, c. 106, § 1.) Adverse claim; oath of claimant, before whom made.
The adverse claim required by section twenty-three hundred and twenty-six of the Revised Statutes may be verified by the oath of any duly-authorized agent or attorney-in-fact of the adverse claimant cognizant of the facts stated; and the adverse claimant, residing or at the time being beyond the limits of the district wherein the claim is situated, may make oath to the adverse claim before the clerk of any court of record of the United States or of the State or Territory where the adverse claimant may then be, or before any notary public of such State or Territory. (22 Stat. 49.)

This was the first section of an act entitled "An act to amend section twenty-three hundred and twenty-six of the Revised Statutes, in regard to mineral lands, and for other purposes."
Section 2 of this act, providing for the making of affidavits of citizenship (1907)
§ 4624  THE PUBLIC LANDS  (Tit. 32)

by applicants for mineral patents residing beyond the limits of the district
where the claim is situated, is set forth ante, § 4617.
R. S. § 2323, mentioned in this act, is set forth ante, § 4622.

§ 4625. (Act March 3, 1881, c. 140.) Adverse claim; findings by
jury; costs.
If, in any action brought pursuant to section twenty-three hun-
dred and twenty-six of the Revised Statutes, title to the ground in
controversy shall not be established by either party, the jury shall
so find, and judgment shall be entered according to the verdict. In
such case costs shall not be allowed to either party, and the claim-
ant shall not proceed in the land-office or be entitled to a patent for
the ground in controversy until he shall have perfected his title. (21
Stat. 505.)

This was an act entitled "An act to amend section twenty-three hundred
and twenty-six of the Revised Statutes relating to suits at law affecting
the title to mining claims."
R. S. § 2326, mentioned in said title and in the act, is set forth ante, § 4623.

§ 4626. (R. S. § 2327, as amended, Act April 28, 1904, c. 1796.)
Description of vein claims on surveyed and unsurveyed lands.
The description of vein or lode claims upon surveyed lands shall
designate the location of the claims with reference to the lines
of the public survey, but need not conform therewith; but where
patents have been or shall be issued for claims upon unsurveyed lands,
the surveyors-general, in extending the public survey, shall adjust the
same to the boundaries of said patented claims so as in no case to inter-
fere with or change the true location of such claims as they are officially
established upon the ground. Where patents have issued for mineral
lands, those lands only shall be segregated and shall be deemed to be
patented which are bounded by the lines actually marked, defined, and
established upon the ground by the monuments of the official survey
upon which the patent grant is based, and surveyors-general in execut-
ing subsequent patent surveys, whether upon surveyed or unsurveyed
lands, shall be governed accordingly. The said monuments shall at all
times constitute the highest authority as to what land is patented, and
in case of any conflict between the said monuments of such patented
claims and the descriptions of said claims in the patents issued there-
for the monuments on the ground shall govern, and erroneous or in-
consistent descriptions or calls in the patent descriptions shall give way
thereto.

Act May 10, 1872, c. 152, § 8, 17 Stat. 94. Act April 28, 1904, c. 1796,
33 Stat. 545.
This section, as originally enacted, was as follows:
"The description of vein or lode claims, upon surveyed lands, shall designate
the location of the claim with reference to the lines of the public surveys,
but need not conform therewith; but where a patent shall be issued for
claims upon unsurveyed lands, the surveyor-general, in extending the surveys,
shall adjust the same to the boundaries of such patented claim, according
to the plat or description thereof, but so as in no case to interfere with or
change the location of any such patented claim."
It was amended to read as set forth here by Act April 28, 1904, c. 1796,
last cited above.

(1908)
§ 4627. (R. S. § 2328.) Pending applications; existing rights.
Applications for patents for mining-claims under former laws now pending may be prosecuted to a final decision in the General Land-Office; but in such cases where adverse rights are not affected thereby, patents may issue in pursuance of the provisions of this chapter; and all patents for mining-claims upon veins or lodes heretofore issued shall convey all the rights and privileges conferred by this chapter where no adverse rights existed on the tenth day of May, eighteen hundred and seventy-two.
Act May 10, 1872, c. 152, § 9, 17 Stat. 94.

§ 4628. (R. S. § 2329.) Conformity of placer-claims to surveys, limit of.
Claims usually called “placers,” including all forms of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and patent, under like circumstances and conditions, and upon similar proceedings, as are provided for vein or lode claims; but where the lands have been previously surveyed by the United States, the entry in its exterior limits shall conform to the legal subdivisions of the public lands.
Act July 9, 1870, c. 235, § 12, 16 Stat. 217.
Building stone lands were opened to entry under the provisions of this section and sections 2280–2283, post, §§ 4629–4633, by Act Aug. 4, 1892, c. 375, § 1, post, § 4634.
Oil lands were opened to entry under the provisions of this section and sections 2280–2283, post, §§ 4629–4633, by Act Feb. 11, 1897, c. 216, post, § 4635.
Saline lands were opened to entry under the provisions of this section and sections 2280–2283, post, §§ 4629–4633, by Act Jan. 31, 1901, c. 186, post, § 4641.
Special provisions relating to placer-mining claims in Alaska were made by Act Aug. 1, 1912, c. 260, post, §§ 5054–5058.

§ 4629. (R. S. § 2330.) Subdivisions of ten-acre tracts; maximum of placer locations.
Legal subdivisions of forty acres may be subdivided into ten-acre tracts; and two or more persons, or associations of persons, having contiguous claims of any size, although such claims may be less than ten acres each, may make joint entry thereof; but no location of a placer-claim, made after the ninth day of July, eighteen hundred and seventy, shall exceed one hundred and sixty acres for any one person or association of persons, which location shall conform to the United States surveys; and nothing in this section contained shall defeat or impair any bona-fide pre-emption or homestead claim upon agricultural lands, or authorize the sale of the improvements of any bona-fide settler to any purchaser.
Act July 9, 1870, c. 235, § 12, 16 Stat. 217.
See note to R. S. § 2329, ante, § 4628.

§ 4630. (R. S. § 2331.) Conformity of placer-claims to surveys; limitation of claims.
Where placer-claims are upon surveyed lands, and conform to legal subdivisions, no further survey or plat shall be required, and all placer-mining claims located after the tenth day of May, eighteen hundred and seventy-two, shall conform as near as practicable with
§ 4630

THE PUBLIC LANDS

(Tit. 32)

the United States system of public-land surveys, and the rectangular subdivisions of such surveys, and no such location shall include more than twenty acres for each individual claimant; but where placer-claims cannot be conformed to legal subdivisions, survey and plat shall be made as on unsurveyed lands; and where by the segregation of mineral land in any legal subdivision a quantity of agricultural land less than forty acres remains, such fractional portion of agricultural land may be entered by any party qualified by law, for homestead or pre-emption purposes.

Act May 10, 1872, c. 152, § 10, 17 Stat. 94.
See note to R. S. § 2329, ante, § 4628.

§ 4631. (R. S. § 2332.) What evidence of possession, etc., to establish a right to a patent.

Where such person or association, they and their grantors, have held and worked their claims for a period equal to the time prescribed by the statute of limitations for mining-claims of the State or Territory where the same may be situated, evidence of such possession and working of the claims for such period shall be sufficient to establish a right to a patent thereto under this chapter, in the absence of any adverse claim; but nothing in this chapter shall be deemed to impair any lien which may have attached in any way whatever to any mining-claim or property thereto attached prior to the issuance of a patent.

See note to R. S. § 2329, ante, § 4628.

§ 4632. (R. S. § 2333.) Proceedings for patent for placer-claim, etc.

Where the same person, association, or corporation is in possession of a placer-claim, and also a vein or lode included within the boundaries thereof, application shall be made for a patent for the placer-claim, with the statement that it includes such vein or lode, and in such case a patent shall issue for the placer-claim, subject to the provisions of this chapter, including such vein or lode, upon the payment of five dollars per acre for such vein or lode claim, and twenty-five feet of surface on each side thereof. The remainder of the placer-claim, or any placer-claim not embracing any vein or lode-claim, shall be paid for at the rate of two dollars and fifty cents per acre, together with all costs of proceedings; and where a vein or lode, such as is described in section twenty-three hundred and twenty, is known to exist within the boundaries of a placer-claim, an application for a patent for such placer-claim which does not include an application for the vein or lode claim shall be construed as a conclusive declaration that the claimant of the placer-claim has no right of possession of the vein or lode claim; but where the existence of a vein or lode in a placer-claim is not known, a patent for the placer-claim shall convey all valuable mineral and other deposits within the boundaries thereof.

Act May 10, 1872, c. 152, § 11, 17 Stat. 94.
See note to R. S. § 2329, ante, § 4628.
Provisions relating to the annual assessment labor upon oil lands located

(1910)
as placer mining claims were made by Act Feb. 12, 1903, c. 548, post, § 4636. Patents for lands located, etc., under the mining laws, containing petroleum, mineral oil, or gas, are not to be denied solely because of transfer, etc., thereof, before discovery of oil or gas thereon, by Act March 2, 1911, c. 201, post, § 4637.

§ 4633. (Act Aug. 4, 1892, c. 375, § 1.) Entry of building stone lands under placer mining laws.
Any person authorized to enter lands under the mining laws of the United States may enter lands that are chiefly valuable for building stone under the provisions of the law in relation to placer mineral claims, Provided, That lands reserved for the benefit of the public schools or donated to any States shall not be subject to entry under this act. (27 Stat. 348.)

This section and the section next following were parts of an act entitled “An act to authorize the entry of lands chiefly valuable for building stone under the placer mining laws.”

Section 2 of that act amended Act June 3, 1878, c. 151, § 1, so as to read as set forth post, § 4671.
The placer mining laws were incorporated in R. S. §§ 2329-2333, ante, §§ 4628-4632.
The surveyed public lands in the public land States chiefly valuable for stone were authorized to be sold by Act June 3, 1878, c. 151, amended by section 2 of this act, post, § 4671.
The public lands ceded by the Shoshone and Bannock Indians of the Fort Hall Reservation, Idaho, were to be disposed of under the stone laws, by Act June 6, 1900, c. 813, § 5, 31 Stat. 676.

§ 4634. (Act Aug. 4, 1892, c. 375, § 3.) Previous provisions not repealed.
Nothing in this act shall be construed to repeal section twenty-four of the act entitled “An act to repeal timber-culture laws, and for other purposes,” approved March third, eighteen hundred and ninety-one. (27 Stat. 348.)

See note to section 1 of this act, ante, § 4633.
Act March 3, 1891, c. 501, § 24, mentioned in this section, provided for forest reservations, and is set forth post, § 5121.

§ 4635. (Act Feb. 11, 1897, c. 216.) Entry of petroleum or other mineral oil lands under placer mining laws.
Any person authorized to enter lands under the mining laws of the United States may enter and obtain patent to lands containing petroleum or other mineral oils, and chiefly valuable therefor, under the provisions of the laws relating to placer mineral claims: Provided, That lands containing such petroleum or other mineral oils which have heretofore been filed upon, claimed, or improved as mineral, but not yet patented, may be held and patented under the provisions of this Act the same as if such filing, claim, or improvement were subsequent to the date of the passage hereof. (29 Stat. 526.)

This was an act entitled “An act to authorize the entry and patenting of lands containing petroleum and other mineral oils under the placer-mining laws of the United States.”
The placer mining laws were incorporated in R. S. §§ 2329-2333, ante, §§ 4628-4632.
Agricultural entries upon oil and gas lands in the State of Utah were provided for by Act Aug. 24, 1912, c. 367, post, §§ 4638-4640.

(1911)
§ 4636. (Act Feb. 12, 1903, c. 548.) Assessment work on contiguous oil lands, located as placer mining claims, of same owner.

Where oil lands are located under the provisions of title thirty-two, chapter six, Revised Statutes of the United States, as placer mining claims, the annual assessment labor upon such claims may be done upon any one of a group of claims lying contiguous and owned by the same person or corporation, not exceeding five claims in all: Provided, That said labor will tend to the development or to determine the oil-bearing character of such contiguous claims. (32 Stat. 825.)

This was an act entitled "An act defining what shall constitute and providing for assessments on oil mining claims."

The entry of lands containing petroleum or other mineral oils, under the laws relating to placer mineral claims, was authorised by Act Feb. 11, 1897, c. 216, ante, § 4635.

§ 4637. (Act March 2, 1911, c. 201.) Patents for oil or gas lands, located or claimed under mining laws, not to be denied because of transfer before discovery thereon of oil or gas.

In no case shall patent be denied to or for any lands heretofore located or claimed under the mining laws of the United States containing petroleum, mineral oil, or gas solely because of any transfer or assignment thereof or of any interest or interests therein by the original locator or locators, or any of them, to any qualified persons or person, or corporation, prior to discovery of oil or gas therein, but if such claim is in all other respects valid and regular, patent therefor not exceeding one hundred and sixty acres in any one claim shall issue to the holder or holders thereof, as in other cases: Provided, however, That such lands were not at the time of inception of development on or under such claim withdrawn from mineral entry. (36 Stat. 1015.)

This was an act entitled "An act to protect the locators in good faith of oil and gas lands who shall have effected an actual discovery of oil or gas on the public lands of the United States, or their successors in interest."

The entry of lands containing petroleum or other mineral oils, under the laws relating to placer mineral claims, was authorized by Act Feb. 11, 1897, c. 216, ante, § 4635.

§ 4638. (Act Aug. 24, 1912, c. 367, § 1.) Public lands in Utah, withdrawn or classified as oil lands, open to entries under the homestead and desert land laws, to selection by the State under grants of Congress or the Carey Act, and to withdrawal under the Reclamation Act; reservation of oil and gas; limitation of desert land entries; previous entries validated.

From and after the passage of this Act unreserved public lands of the United States in the State of Utah, which have been withdrawn or classified as oil lands, or are valuable for oil, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection by the State of Utah under grants made by Congress and under section four of the Act approved August eighteen, eighteen hundred and ninety-four, known as the Carey Act, and to withdrawal under the Act approved June seventeenth, nineteen hundred and two, known as the (1912)
reclamation Act, and to disposition in the discretion of the Secretary of the Interior under the law providing for the sale of isolated or disconnected tracts of public lands, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title, with a reservation to the United States of the oil and gas in such lands and of the right to prospect for, mine, and remove the same. But no desert entry made under the provisions of this Act shall contain more than one hundred and sixty acres: Provided, That those who have initiated nonmineral entries, selections, or locations in good faith, prior to the passage of this Act, on lands withdrawn or classified as oil lands, may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this Act. (37 Stat. 496.)

This section and the two sections next following were an act entitled "An act to provide for agricultural entries on oil and gas lands."

The homestead laws are set forth ante, under chapter 5, of this Title.
The desert land laws are set forth post, under chapter 6B, of this Title.
Act Aug. 18, 1894, known as the Carey Act, mentioned in this act, is Act Aug. 18, 1894, c. 301, § 4, post, § 4685.
The Reclamation Act, mentioned in this act, is Act June 17, 1902, c. 1003, post, §§ 4700-4708.
The law providing for the sale of isolated or disconnected tracts of public lands, mentioned in this act, is R. S. § 2455, as amended, post, § 5110.

§ 4639. (Act Aug. 24, 1912, c. 367, § 2.) Applications for oil lands in Utah under this act.

Any person desiring to make entry under the homestead laws or the desert-land law, and the State of Utah desiring to make selection under section four of the Act of August eighteenth, eighteen hundred and ninety-four, known as the Carey Act, or under grants made by Congress, and the Secretary of the Interior in withdrawing under the reclamation Act lands classified as oil lands, or valuable for oil, with a view of securing or passing title to the same in accordance with the provisions of said Acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of this Act. (37 Stat. 496.)

See notes to section 1 of this act, ante, § 4638.

§ 4640. (Act Aug. 24, 1912, c. 367, § 3.) Patent for oil lands in Utah; reservation of oil and gas; damages caused by prospecting or removal of oil and gas.

Upon satisfactory proof of full compliance with the provisions of the laws under which entry is made and of this Act the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the oil and gas in the lands so patented, together with the right to prospect for, mine, and remove the same upon rendering compensation to the patentee for all damages that may be caused by prospecting for and removing such oil or gas. The reserved oil and
§ 4640  THE PUBLIC LANDS

gas deposits in such lands shall be disposed of only as shall be here-

after expressly directed by law. (37 Stat. 496.)

See notes to section 1 of this act, ante, § 4638.

§ 4641. (Act Jan. 31, 1901, c. 186.) Entry of saline lands under
placer mining laws.

All unoccupied public lands of the United States containing salt
springs, or deposits of salt in any form, and chiefly valuable there-
for, are hereby declared to be subject to location and purchase un-
der the provisions of the law relating to placer-mining claims:
Provided, That the same person shall not locate or enter more than
one claim hereunder. (31 Stat. 745.)

This was an act entitled "An act extending the mining laws to saline
lands," cited above.

The placer mining laws were incorporated in R. S. §§ 2320–2333, ante, §§
4628–4632.

The sale of saline lands in certain cases was authorized by Act Jan. 12,
1877, c. 18, § 1, post, § 4752.

Acts subsequent to the Revised Statutes, admitting new States to the Union,
granted to several such States, respectively, saline lands within the State,
as follows: Colorado, Act March 3, 1875, c. 129, § 11, 18 Stat. 476; North
Dakota, South Dakota, Montana, and Washington, Act Feb. 22, 1889, c. 140,
216; Wyoming, Act July 10, 1890, c. 664, §§ 11, 12, 14, 20 Stat. 224; Utah,

§ 4642. (R. S. § 2334.) Surveyor-general to appoint surveyors of
mining-claims, etc.

The surveyor-general of the United States may appoint in each
land-district containing mineral lands as many competent surveyors
as shall apply for appointment to survey mining-claims. The ex-
penses of the survey of vein or lode claims, and the survey and sub-
division of placer-claims into smaller quantities than one hundred
and sixty acres, together with the cost of publication of notices, shall
be paid by the applicants, and they shall be at liberty to obtain the
same at the most reasonable rates, and they shall also be at liberty
to employ any United States deputy surveyor to make the survey.
The Commissioner of the General Land-Office shall also have power
to establish the maximum charges for surveys and publication of
notices under this chapter; and, in case of excessive charges for
publication, he may designate any newspaper published in a land-
district where mines are situated for the publication of mining-not-
ices in such district, and fix the rates to be charged by such paper;
and, to the end that the Commissioner may be fully informed on
the subject, each applicant shall file with the register a sworn state-
ment of all charges and fees paid by such applicant for publication and
surveys, together with all fees and money paid the register and the
receiver of the land-office, which statement shall be transmitted, with
the other papers in the case, to the Commissioner of the General
Land-Office.

Act May 10, 1872, c. 152, § 12, 17 Stat. 95.

§ 4643. (R. S. § 2335.) Verification of affidavits, etc.

All affidavits required to be made under this chapter may be ver-
ified before any officer authorized to administer oaths within the

(1914)
land-district where the claims may be situated, and all testimony and proofs may be taken before any such officer, and, when duly certified by the officer taking the same, shall have the same force and effect as if taken before the register and receiver of the land-office. In cases of contest as to the mineral or agricultural character of land, the testimony and proofs may be taken as herein provided on personal notice of at least ten days to the opposing party; or if such party cannot be found, then by publication of at least once a week for thirty days in a newspaper, to be designated by the register of the land-office as published nearest to the location of such land; and the register shall require proof that such notice has been given.

Act May 10, 1872, c. 152, § 13, 17 Stat. 95.

In addition to the provisions of this section relating to affidavits required by this chapter, applicants for mineral patents, residing beyond the limits of the district wherein the claim is situated, may make any oath or affidavit for proof of citizenship, as required by R. S. § 2321, ante, § 4616, before the clerk of any court of record or before any notary public of any State or Territory, by Act April 26, 1882, c. 106, § 2, ante, § 4617.

§ 4644. (R. S. § 2336.) Where veins intersect, etc.

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


§ 4645. (R. S. § 2337.) Patents for non-mineral lands, etc.

Where non-mineral land not contiguous to the vein or lode is used or occupied by the proprietor of such vein or lode for mining or milling purposes, such non-adjacent surface-ground may be embraced and included in an application for a patent for such vein or lode, and the same may be patented therewith, subject to the same preliminary requirements as to survey and notice as are applicable to veins or lodes; but no location hereafter made of such non-adjacent land shall exceed five acres, and payment for the same must be made at the same rate as fixed by this chapter for the superficies of the lode. The owner of a quartz-mill or reduction-works, not owning a mine in connection therewith, may also receive a patent for his mill-site, as provided in this section.


§ 4646. (R. S. § 2338.) What conditions of sale may be made by local legislature.

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

Act July 26, 1866, c. 262, § 5, 14 Stat. 252.

(1915)
§ 4647. (R. S. § 2339.) Vested rights to use of water for mining, etc.; right of way for canals.
Whenever, by priority of possession, rights to the use of water for mining, agricultural, manufacturing, or other purposes, have vested and accrued, and the same are recognized and acknowledged by the local customs, laws, and the decisions of courts, the possessors and owners of such vested rights shall be maintained and protected in the same; and the right of way for the construction of ditches and canals for the purposes herein specified is acknowledged and confirmed; but whenever any person, in the construction of any ditch or canal, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage.

§ 4648. (R. S. § 2340.) Patents, pre-emptions, and homesteads subject to vested and accrued water-rights.
All patents granted, or pre-emption or homesteads allowed, shall be subject to any vested and accrued water-rights, or rights to ditches and reservoirs used in connection with such water-rights, as may have been acquired under or recognized by the preceding section.
Act July 9, 1870, c. 235, § 17, 16 Stat. 218.

§ 4649. (R. S. § 2341.) Mineral lands in which no valuable mines are discovered open to homesteads.
Wherever, upon the lands heretofore designated as mineral lands, which have been excluded from survey and sale, there have been homesteads made by citizens of the United States, or persons who have declared their intention to become citizens, which homesteads have been made, improved, and used for agricultural purposes, and upon which there have been no valuable mines of gold, silver, cinnabar, or copper discovered, and which are properly agricultural lands, the settlers or owners of such homesteads shall have a right of pre-emption thereto, and shall be entitled to purchase the same at the price of one dollar and twenty-five cents per acre, and in quantity not to exceed one hundred and sixty acres; or they may avail themselves of the provisions of chapter five of this Title, relating to "Homesteads."

§ 4650. (R. S. § 2342.) Mineral lands, how set apart as agricultural lands.
Upon the survey of the lands described in the preceding section, the Secretary of the Interior may designate and set apart such portions of the same as are clearly agricultural lands, which lands shall thereafter be subject to pre-emption and sale as other public lands, and be subject to all the laws and regulations applicable to the same.

§ 4651. (R. S. § 2343.) Additional land districts and officers; power of the President to provide.
The President is authorized to establish additional land-districts,
and to appoint the necessary officers under existing laws, wherever he may deem the same necessary for the public convenience in executing the provisions of this chapter.

Act July 26, 1866, c. 262, § 7, 14 Stat. 252.

§ 4652. (R. S. § 2344.) Provisions of this chapter not to affect certain rights.

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


§ 4653. (R. S. § 2345.) Mineral lands in certain States excepted.

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


Mineral lands in Missouri and Kansas were excepted from the provisions of the mineral land laws by Act May 5, 1876, c. 91, post, § 4654.

Mineral lands in Alabama were excepted from the provisions of the mineral land laws by Act March 3, 1883, c. 118, post, § 4655.

The public lands in Alabama were to be reclassified, to determine their character as mineral or agricultural, and all lands so reclassified as agricultural were to be subject to homestead entry as such, by Act March 27, 1906, c. 1347, §§ 1, 2, post, §§ 4656, 4657.

§ 4654. (Act May 5, 1876, c. 91.) Mineral lands in Missouri and Kansas; disposal as agricultural lands.

Within the States of Missouri and Kansas deposits of coal, iron, lead, or other mineral be, and they are hereby, excluded from the operation of the act entitled "An act to promote the development of mining resources of the United States" approved May tenth, eighteen hundred and seventy-two and all lands in said States shall be subject to disposal as agricultural lands. (19 Stat. 52.)

This was an act entitled "An act to exclude the States of Missouri and Kansas from the provisions of the act of Congress entitled 'An act to promote the development of the mining resources of the United States," approved May tenth, eighteen hundred and seventy-two."

Act May 10, 1872, c. 152, 17 Stat. 91, mentioned in this act, was incorporated into the Revised Statutes in sections 2310–2328, 2331, 2333–2337, 2344, ante, §§ 4614–4616, 4618–4620, 4622, 4623, 4626, 4627, 4630, 4632, 4642–4645, 4652.

(1917)

Within the State of Alabama all public lands, whether mineral or otherwise, shall be subject to disposal only as agricultural lands: Provided however, that all lands which have heretofore been reported to the General Land Office as containing coal and iron shall first be offered at public sale. (22 Stat. 487.)

This was part of an act entitled "An act to exclude the public lands in Alabama from the operation of the laws relating to mineral lands."

The latter part of the act, relating to pending homestead entries, is omitted as temporary merely.

Provisions for the reclassification of public lands in Alabama and for homestead entries upon lands designated thereby as agricultural, were made by Act March 27, 1906, c. 1347. §§ 1, 2, post, §§ 4650, 4657.

Coal lands in Alabama withheld from homestead entry under this act may be entered under the homestead laws, subject to the provisions of Act June 22, 1910, c. 318, post, §§ 4660-4668, by Act April 23, 1912, c. 87, post, § 4670.

§ 4656. (Act March 27, 1906, c. 1347, § 1.) Reclassification of lands in Alabama, as agricultural or mineral lands.

The Secretary of the Interior be, and he is hereby, authorized to reclassify the public lands of Alabama, so as to determine which of said lands are in fact agricultural lands and which mineral lands, and to decide which of said lands should be subject to homestead entry, and to that end he is hereby authorized and empowered to employ such expert mineralogist, assayists, and civil engineers as may be necessary to designate and survey said mineral and agricultural lands. (34 Stat. 88.)

This section and the section next following were part of an act entitled "An act to authorize the Secretary of the Interior to reclassify the public lands of Alabama."

Section 3 of the act made an appropriation to carry out its provisions, and is omitted as temporary merely.

§ 4657. (Act March 27, 1906, c. 1347, § 2.) Lands designated as agricultural to be subject to homestead entry.

Upon receipt of the report of the parties designated to make such classification, all lands designated thereby as agricultural shall be subject to homestead entry as such. (34 Stat. 88.)

All lands within the State of Alabama, whether mineral or otherwise, were to be subject to disposal only as agricultural lands, by Act March 3, 1883, c. 118, ante, § 4655.

§ 4658. (R. S. § 2346.) Grants of lands to States or corporations not to include mineral lands.

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


The various acts admitting new States into the Union contain provisions making grants of public lands to the respective States, with an express exception from such grants of mineral lands, and usually a clause permitting

Provisions for the selection of coal lands by the several States, reserving the coal to the United States, were made by Act April 30, 1912, c. 99, post, § 4669.

Provisions for the selection by the State of Utah of oil lands, reserving the oil and gas to the United States, were made by Act Aug. 24, 1912, c. 367, ante, §§ 4639–4640.

Provisions that unreserved public lands in the State of Idaho, which had been withdrawn or classified as phosphate or oil lands, or were valuable for phosphate or oil, might be selected by the State under indemnity and other grants made to it by Congress, with a reservation to the United States of the phosphates and oil therein, were made by Act Feb. 27, 1913, c. 85, § 1, post, § 4663.

Provisions relating to the classification of the lands within the limits of the grants to the Northern Pacific Railroad Company for the purpose of determining their mineral or non-mineral character are referred to in the note to chapter 108 of this Title, "Grants for Railroads and Wagon Roads."

§ 4659. (R. S. § 2347.) Entry of coal-lands.
Every person above the age of twenty-one years, who is a citizen of the United States, or who has declared his intention to become such, or any association of persons severally qualified as above, shall, upon application to the register of the proper land-office, have the right to enter, by legal subdivisions, any quantity of vacant coal-lands of the United States not otherwise appropriated or reserved by competent authority, not exceeding one hundred and sixty acres to such individual person, or three hundred and twenty acres to such association, upon payment to the receiver of not less than ten dollars per acre for such lands, where the same shall be situated more than fifteen miles from any completed railroad, and not less than twenty dollars per acre for such lands as shall be within fifteen miles of such road.

Act March 3, 1873, c. 279, § 1, 17 Stat. 607.
The provisions of this section and R. S. §§ 2348–2352, post, §§ 4600–4604, were extended to Alaska by Act June 6, 1900, c. 796, post, § 5070.

Provisions for the protection of the surface rights of entrymen, under the nonmineral land laws, of lands subsequently classified, claimed, or reported as coal lands, were made by Act March 3, 1909, c. 270, post, § 4605.

Agricultural entries on lands withdrawn or classified as coal lands, or valuable for coal, were provided for by Act June 22, 1910, c. 318, post, §§ 4688–4693.

Selections by the States of lands withdrawn or classified as coal lands, or valuable for coal, under grants by Congress, were contained in Act April 30, 1912, c. 99, post, § 4669.

§ 4660. (R. S. § 2348.) Pre-emption of coal lands.
Any person or association of persons severally qualified, as above provided, who have opened and improved, or shall hereafter open and improve, any coal mine or mines upon the public lands, and shall be in actual possession of the same, shall be entitled to a preference-right of entry, under the preceding section, of the mines so opened
§ 4660

THE PUBLIC LANDS

and improved: Provided, That when any association of not less than four persons, severally qualified as above provided, shall have expended not less than five thousand dollars in working and improving any such mine or mines, such association may enter not exceeding six hundred and forty acres, including such mining improvements.


§ 4661. (R. S. § 2349.) Pre-emption claims of coal-land to be presented within sixty days, etc.

All claims under the preceding section must be presented to the register of the proper land-district within sixty days after the date of actual possession and the commencement of improvements on the land, by the filing of a declaratory statement therefor; but when the township plat is not on file at the date of such improvement, filing must be made within sixty days from the receipt of such plat at the district office; and where the improvements shall have been made prior to the expiration of three months from the third day of March, eighteen hundred and seventy-three, sixty days from the expiration of such three months shall be allowed for the filing of a declaratory statement, and no sale under the provisions of this section shall be allowed until the expiration of six months from the third day of March, eighteen hundred and seventy-three.


§ 4662. (R. S. § 2350.) Only one entry allowed.

The three preceding sections shall be held to authorize only one entry by the same person or association of persons; and no association of persons any member of which shall have taken the benefit of such sections, either as an individual or as a member of any other association, shall enter or hold any other lands under the provisions thereof; and no member of any association which shall have taken the benefit of such sections shall enter or hold any other lands under their provisions; and all persons claiming under section twenty-three hundred and forty-eight shall be required to prove their respective rights and pay for the lands filed upon within one year from the time prescribed for filing their respective claims; and upon failure to file the proper notice, or to pay for the land within the required period, the same shall be subject to entry by any other qualified applicant.


R. S. § 2348, mentioned in this section, is set forth ante, § 4660.

§ 4663. (R. S. § 2351.) Conflicting claims.

In case of conflicting claims upon coal-lands where the improvements shall be commenced, after the third day of March, eighteen hundred and seventy-three, priority of possession and improvement, followed by proper filing and continued good faith, shall determine the preference-right to purchase. And also where improvements have already been made prior to the third day of March, eighteen hundred and seventy-three, division of the land claimed may be made by legal subdivisions, to include, as near as may be, the valuable improvements of the respective parties. The Commissioner of the General Land-Office is authorized to issue all needful rules and reg-

(1920)
ulations for carrying into effect the provisions of this and the four preceding sections.

Act March 3, 1873, c. 279, § 5, 17 Stat. 608.

§ 4664. (R. S. § 2352.) Rights reserved.
Nothing in the five preceding sections shall be construed to destroy or impair any rights which may have attached prior to the third day of March, eighteen hundred and seventy-three, or to authorize the sale of lands valuable for mines of gold, silver, or copper.

Act March 3, 1873, c. 279, § 6, 17 Stat. 608.


Any person who has in good faith located, selected, or entered under the nonmineral land laws of the United States any lands which subsequently are classified, claimed, or reported as being valuable for coal, may, if he shall so elect, and upon making satisfactory proof of compliance with the laws under which such lands are claimed, receive a patent therefor, which shall contain a reservation to the United States of all coal in said lands, and the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal, but no person shall enter upon said lands to prospect for, or mine and remove coal therefrom, without previous consent of the owner under such patent, except upon such conditions as to security for and payment of all damages to such owner caused thereby as may be determined by a court of competent jurisdiction: Provided, That the owner under such patent shall have the right to mine coal for use on the land for domestic purposes prior to the disposal by the United States of the coal deposit: Provided further, That nothing herein contained shall be held to affect or abridge the right of any locator, selector, or entryman to a hearing for the purpose of determining the character of the land located, selected, or entered by him. Such locator, selector or entryman who has heretofore made or shall hereafter make final proof showing good faith and satisfactory compliance with the law under which his land is claimed shall be entitled to a patent without reservation unless at the time of such final proof and entry it shall be shown that the land is chiefly valuable for coal. (35 Stat. 844.)

This was an act entitled "An act for the protection of the surface rights of entrymen."

§ 4666. (Act June 22, 1910, c. 318, § 1.) Coal lands subject to homestead or desert-land entry, to selection under Carey Act, and to withdrawal under Reclamation Act, with reservation of coal, etc.; limitation and conditions of entries; application of act to prior nonmineral entries.

From and after the passage of this Act unreserved public lands

Comp.St.'13—121 (1921)
of the United States exclusive of Alaska which have been withdrawn or classified as coal lands, or are valuable for coal, shall be subject to appropriate entry under the homestead laws by actual settlers only, the desert-land law, to selection under section four of the Act approved August eighteenth, eighteen hundred and ninety-four, known as the Carey Act, and to withdrawal under the Act approved June seventeenth, nineteen hundred and two, known as the Reclamation Act, whenever such entry, selection, or withdrawal shall be made with a view of obtaining or passing title, with a reservation to the United States of the coal in such lands and of the right to prospect for, mine, and remove the same. But no desert entry made under the provisions of this Act shall contain more than one hundred and sixty acres, and all homestead entries made hereunder shall be subject to the conditions, as to residence and cultivation, of entries under the Act approved February nineteenth, nineteen hundred and nine, entitled "An Act to provide for an enlarged homestead:" Provided, That those who have initiated non-mineral entries, selections, or locations in good faith, prior to the passage of this Act, on lands withdrawn or classified as coal lands may perfect the same under the provisions of the laws under which said entries were made, but shall receive the limited patent provided for in this Act. (36 Stat. 583.)

This section and the two sections next following were an act entitled "An act to provide for agricultural entries on coal lands."

Act March 3, 1877, c. 107, the desert-land law, mentioned in this act, is set forth post, §§ 4674-4680.

Act Aug. 18, 1894, c. 301, § 4, the Carey Act, also mentioned in this act, is set forth post, § 4685.

Act June 17, 1902, c. 1093, the Reclamation Act, also mentioned in this act, is set forth post, §§ 4700-4708.

Act Feb. 19, 1909, c. 100, providing for an enlarged homestead, also mentioned in this act, is set forth ante, §§ 4563-4568.

This act was supplemented by provisions for the selection of coal lands by the several States, and for their sale under the laws providing for the sale of isolated or disconnected tracts of public lands, by Act April 30, 1912, c. 90, post, § 4669.

Coal lands in Alabama, withheld from homestead entry under Act March 3, 1883, c. 118, ante, § 4655, may be entered as homesteads, subject to the provisions of this act, by Act April 23, 1912, c. 87, post, § 4670.

§ 4667. (Act June 22, 1910, c. 318, § 2.) Applications for entry, etc., under act.

Any person desiring to make entry under the homestead laws or the desert-land law, any State desiring to make selection under section four of the Act of August eighteenth, eighteen hundred and ninety-four, known as the Carey Act, and the Secretary of the Interior in withdrawing under the Reclamation Act classified as coal lands, or valuable for coal, with a view of securing or passing title to the same in accordance with the provisions of Acts, shall state in the application for entry, selection, or notice of withdrawal that the same is made in accordance with and subject to the provisions and reservations of this Act. (36 Stat. 584.)

(1922)
§ 4668. (Act June 22, 1910, c. 318, § 3.) Patents for lands, with reservation of coal, etc.; disposal of coal deposits; prospecting for coal; damages from mining to surface owners; mining by owners for domestic use; right to disprove classification as coal lands.

Upon satisfactory proof of full compliance with the provisions of the laws under which entry is made, and of this Act, the entryman shall be entitled to a patent to the land entered by him, which patent shall contain a reservation to the United States of all the coal in the lands so patented, together with the right to prospect for, mine, and remove the same. The coal deposits in such lands shall be subject to disposal by the United States in accordance with the provisions of the coal-land laws in force at the time of such disposal. Any person qualified to acquire coal deposits or the right to mine and remove the coal under the laws of the United States shall have the right, at all times, to enter upon the lands selected, entered, or patented, as provided by this Act, for the purpose of prospecting for coal thereon upon the approval by the Secretary of the Interior of a bond or undertaking to be filed with him as security for the payment of all damages to the crops and improvements on such lands by reason of such prospecting. Any person who has acquired from the United States the coal deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the coal therefrom, and mine and remove the coal, upon payment of the damages caused thereby to the owner thereof, or upon giving a good and sufficient bond or undertaking in an action instituted in any competent court to ascertain and fix said damages: Provided, That the owner under such limited patent shall have the right to mine coal for use upon the land for domestic purposes at any time prior to the disposal by the United States of the coal deposits: Provided further, That nothing herein contained shall be held to deny or abridge the right to present and have prompt consideration of applications to locate, enter, or select, under the land laws of the United States, lands which have been classified as coal lands with a view of disproving such classification and securing a patent without reservation. (36 Stat. 584.)

§ 4669. (Act April 30, 1912, c. 99.) Selection of coal lands by States; sale of coal lands in isolated or disconnected tracts; reservation of coal thereon, and right to prospect and mine it.

From and after the passage of this Act unreserved public lands of the United States, exclusive of Alaska, which have been withdrawn or classified as coal lands or are valuable for coal shall, in addition to the classes of entries or filings described in the Act of Congress approved June twenty-second, nineteen hundred and ten, entitled “An Act to provide for agricultural entries on coal lands,” be subject to selection by the several States within whose limits the lands are situate, under grants made by Congress, and to disposition, in the discretion of the Secretary of the Interior, under the laws providing for the sale of isolated or disconnected tracts of
§ 4669  THE PUBLIC LANDS  (Tit. 32)

public lands, but there shall be a reservation to the United States of the coal in all such lands so selected or sold and of the right to prospect for, mine, and remove the same in accordance with the provisions of said Act of June twenty-second, nineteen hundred and ten, and such lands shall be subject to all the conditions and limitations of said Act. (37 Stat. 105.)

This was an act to supplement Act June 22, 1910, c. 318, mentioned therein, set forth ante, §§ 4666-4668.

The laws providing for the sale of isolated or disconnected tracts of public lands, referred to in this act, were contained in R. S. § 2455, as amended, post, § 5110.

§ 4670. (Act April 23, 1912, c. 87.) Coal lands in Alabama opened to agricultural entry.

Unreserved public lands containing coal deposits in the State of Alabama which are now being withheld from homestead entry under the provisions of the Act entitled "An Act to exclude the public lands in Alabama from the operations of the laws relating to mineral lands," approved March third, eighteen hundred and eighty-three, may be entered under the homestead laws of the United States subject to the provisions, terms, conditions, and limitations prescribed in the Act entitled "An Act to provide for agricultural entries on coal lands," approved June twenty-second, nineteen hundred and ten. (37 Stat. 90.)

This was an act entitled "An act extending the operation of the act of June twenty-second, nineteen hundred and ten, to coal lands in Alabama."

Act March 3, 1883, c. 118, mentioned in this section, is set forth ante, § 4665.

Act June 22, 1910, c. 318, also mentioned in this section, is set forth ante, §§ 4666-4668.

CHAPTER SIX A

Timber and Stone Lands

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes the provisions of Act June 3, 1878, c. 151, 20 Stat. 90, entitled "An act for the sale of timber lands in the states of California, Oregon, Nevada, and in Washington Territory," as amended by Act Aug. 4, 1892, c. 375, § 2, 27 Stat. 248.

§ 4671. (Act June 3, 1878, c. 151, § 1, as amended, Act Aug. 4, 1892, c. 375, § 2.) Sale of timber and stone lands.

Surveyed public lands of the United States within the public land States, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale according to law, may be sold to citizens of the United States, or per-
sons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: Provided, That nothing herein contained shall defeat or impair any bona-fide claim under any law of the United States, or authorize the sale of any mining claim, or the improvements of any bona-fide settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: And provided further, That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes", shall be abrogated by this act; and all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act. (20 Stat. 89. 27 Stat. 348.)

This was the first section of an act entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," cited above.

This section, as originally enacted, began with the words, "That surveyed public lands of the United States within the States of California, Oregon and Nevada and in Washington Territory," etc. It was amended by Act Aug. 4, 1892, c. 375, § 2, cited above, by striking out the words "States of California, Oregon and Nevada and in Washington Territory," and inserting in lieu thereof the words "public land States," thus making the act applicable to timber lands in all the public land States, which was the purpose of the amending act, expressed therein.

Act July 26, 1866, c. 262, 14 Stat. 251, mentioned in this section was incorporated into R. S. §§ 2338, 2339, 2341–2343, 2477, 4646, 4647, 4649–4651, 4619.

Building-stone lands are subject to entry under the placer-mining laws by Act Aug. 4, 1892, c. 375, § 1, ante, § 4633.

Sections 2 and 3 of this act are set forth post, §§ 4672, 4673.

Section 4 of this act made punishable the unlawful cutting, destruction, or removal of timber on public lands, and provided for prosecutions therefor. It was superseded by the provisions relating to the same subject of Crim. Code, § 40, post, § 10216.

Section 5 of the act, providing for relief from certain prosecutions for cutting, etc., timber on public lands, on payment for the timber, etc., is set forth post, § 4988.

Section 6 of the act repealed all acts, etc., inconsistent with the provisions of this act.

§ 4672. (Act June 3, 1878, c. 151, § 2.) Applications for purchase of timber and stone lands; false swearing; penalty.

Any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is un-
§ 4673. THE PUBLIC LANDS

inhabited; contains no mining or other improvements, except for
ditch or canal purposes, where any such do exist, save such as were
made by or belong to the applicant, nor, as deponent verily believes,
any valuable deposit of gold, silver, cinnabar, copper, or coal; that de-
ponent has made no other application under this act; that he does
not apply to purchase the same on speculation, but in good faith to
appropriate it to his own exclusive use and benefit; and that he has
not, directly or indirectly, made any agreement or contract, in any
way or manner, with any person or persons whatsoever, by which
the title which he might acquire from the government of the United
States should inure, in whole or in part, to the benefit of any person
except himself; which statement must be verified by the oath of the
applicant before the register or the receiver of the land-office within
the district where the land is situated; and if any person taking such
oath shall swear falsely in the premises, he shall be subject to all the
pains and penalties of perjury, and shall forfeit the money which he
may have paid for said lands, and all right and title to the same;
and any grant or conveyance which he may have made, except in
the hands of bona-fide purchasers, shall be null and void. (20 Stat.
89.)

§ 4673. (Act June 3, 1878, c. 151, § 3.) Publication of application
for purchase; proofs; entry and patent; regulations.

Upon the filing of said statement, as provided in the second sec-
tion of this act, the register of the land office shall post a notice
of such application, embracing a description of the land by legal
subdivisions, in his office, for a period of sixty days, and shall
furnish the applicant a copy of the same for publication, at the ex-
pense of such applicant, in a newspaper published nearest the loca-
tion of the premises, for a like period of time; and after the expiration
of said sixty days, if no adverse claim shall have been filed, the person
desiring to purchase shall furnish to the register of the land-office
satisfactory evidence, first, that said notice of the application prepared
by the register as aforesaid was duly published in a newspaper as
herein required; secondly, that the land is of the character contem-
plated in this act, unoccupied and without improvements, other than
those excepted, either mining or agricultural, and that it apparently
contains no valuable deposits of gold, silver, cinnabar, copper, or coal;
and upon payment to the proper officer of the purchase-money of
said land, together with the fees of the register and the receiver, as
provided for in case of mining claims in the twelfth section of the
act approved May tenth, eighteen hundred and seventy-two, the appli-
cant may be permitted to enter said tract, and, on the transmission
to the General Land Office of the papers and testimony in the case,
a patent shall issue thereon: Provided, That any person having a
valid claim to any portion of the land may object, in writing, to the
issuance of a patent to lands so held by him, stating the nature of his
claim thereto; and evidence shall be taken, and the merits of said
objection shall be determined by the officers of the land-office, subject
to appeal, as in other land cases. Effect shall be given to the fore-

(1926)
going provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office. (20 Stat. 90.)

The second section of this act, referred to in this section, is set forth ante, § 4672.

Act May 10, 1872, c. 152, § 12, mentioned in this section, was incorporated into R. S. § 2334, ante, § 4642.

CHAPTER SIX B

Desert and Arid Lands, and Irrigation and Reclamation

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes the provisions of the desert-land laws, the Carey Act and acts amendatory thereof and supplementary thereto, granting lands to States for reclamation, and the National Reclamation or Irrigation Act and the acts amendatory thereof and supplementary thereto, providing for the reclamation of arid lands by the United States.

Sec.

DESER T LANDS

4674. Sale of desert lands; use of water; declaration; patent; quantity purchasable by one person.

4675. Desert lands defined.

4676. States in which act to apply.

4677. Irrigation plan to be filed.

4678. Expenditures on and cultivation of land required; patent.

4679. Issue of patent on making proofs; limit of individual holding; additional proofs.

4680. Act to apply in Colorado; resident citizens only entitled to enter.

4681. Desert-land entries restricted to surveyed lands; preference of persons in possession of lands prior to survey.

4682. Assignments of desert-land entries restricted.

4683. Time to complete irrigation works and make final proofs under desert-land entries extended.

4684. Further extension of time for final proof in desert-land entries to be granted by the Secretary of the Interior; affidavit for extension; limit of extension.

GRANTS OF DESERT LANDS TO STATES FOR RECLAMATION

( THE CAREY ACT )

4685. (1) Contracts by United States with public-land States for donation of arid lands.

(2) Map showing plan of irrigation; regulations for reservation.

(3) States may contract for reclamation and settlement.

(4) Patents to States or assigns; limit of amount to one person; disposal of funds derived from sale.

4686. Liens for expenses of reclamation of arid lands.

4687. When time limit for reclamation begins to run; failure to reclaim; restoration to public domain.

4688. Additional arid lands made available to State of Idaho for reclamation.

4689. Additional arid lands made available to states of Idaho and Wyoming for reclamation.

4690. Provisions for grants of arid lands to states for reclamation extended to territories of New Mexico and Arizona.

4691. Additional arid lands made available to State of Nevada for reclamation.

4692. Additional arid lands made available to State of Colorado for reclamation.

4693. Provisions for grants of arid lands to States for reclamation extended to desert lands within part of former Ute Indian Reservation in State of Colorado.

4694. Restriction of lands to be included under provisions of act.

4695. Temporary withdrawal from settlement or entry of lands for which application under Carey Act is proposed.

(1927)
THE PUBLIC LANDS

Sec. 4696. Surveys in arid regions; reservations for reservoir sites, etc.; opening lands reserved to homestead entries.

Sec. 4697. Repeal in part of Act Oct. 2, 1888, c. 1006; entries on arid lands; reservation of reservoir sites.

Sec. 4698. Reservoir sites to include only necessary land.

Sec. 4699. Reservoir sites to be open to use for right of way; occupancy and control by states.

Sec. 4700. Receipts from public lands in certain States and Territories appropriated as reclamation fund; insufficiency of proceeds of other public lands for support of agricultural colleges to be supplied from other moneys.

Sec. 4701. Surveys for and location and construction of irrigation works; reports to Congress.

Sec. 4702. Withdrawal from entry of lands required for works and lands susceptible of irrigation; lands to be irrigated subject to entry under homestead laws; commutation provisions not applicable.

Sec. 4703. Contracts for irrigation works; public notice of lands irrigable, limit of entry, charges, etc.; eight hours to be a day's work; no Mongolian labor to be employed.

Sec. 4704. Requirements to be performed by entryman; sale of water rights to landowners; payments, and forfeiture for nonpayment; disposition of receipts; commissions of registrars and receivers.

Sec. 4705. Use of reclamation fund for reservoirs and irrigation works; transfer of management of irrigation works to landowners; title to and management of reservoirs, etc.

Sec. 4706. Acquisition of rights or property for purposes of act; condemnation proceedings.

Sec. 4707. Irrigation laws of States and Territories, and rights to waters of interstate streams, not affected by act; extent of right to use of water acquired under act.

Sec. 4708. Execution of provisions of act and regulations therefor.

(1928)

Sec. 4709. Provisions of Reclamation Act extended to State of Texas.

Sec. 4710. Advances to reclamation fund from Treasury; aggregate amount; limitation to payment for work performed; reimbursement; examination and approval of projects; no portion of appropriation to be expended on new projects.

Sec. 4711. Certificates of indebtedness to provide funds for advances; disposal; aggregate amount; exemption from taxation; appropriation for expenses.

Sec. 4712. Repayment of advances from annual receipts of reclamation fund.

Sec. 4713. Money advanced to reclamation fund to be devoted to completion of work on projects heretofore begun; no other projects to be begun until recommended by the Secretary of the Interior and approved by direct order of the President.

Sec. 4714. Entries of lands reserved for irrigation not to be made until unit of acreage and water charges and date when water can be applied are fixed; lands relinquished to be subject to homestead settlement and entry.

Sec. 4715. Withdrawal from entry of town-sites under irrigation projects; survey and subdivision.

Sec. 4716. Appraisal and sale of lots; expenses, and disposition of proceeds.

Sec. 4717. Public reservations in town-sites.

Sec. 4718. Water rights for towns and cities; charges for water supply.

Sec. 4719. Lease of surplus water power; disposition of proceeds; longer term of lease in connection with Rio Grande project.

Sec. 4720. Subdivision of lands to be irrigated into lesser areas than forty acres; farm units; survey and entry of subdivisions.

Sec. 4721. Other entry allowed, on relinquishment of former entry on lands acquired under Reclamation Act.

Sec. 4722. Disposal of town-sites previously set apart, within or in vicinity of reclamation project; expenses, and disposition of proceeds.

Sec. 4723. Settlers previously allowed to s-
establish themselves on certain townsites to have right to purchase lots built upon; limitation on size of townsites not to apply; withdrawal and disposal of larger townsites authorized; expenses, and disposition of proceeds.

4724. Desert-land entries within exterior limits of land withdrawal or irrigation project; time allowed to make improvements or reclaim land; rights of entryman on abandonment or completion of irrigation project.

4725. Reappraisal of unsold lots in town sites within reclamation projects.

4726. Manner of payment for town lots sold.

4727. Assignment of completed homestead entries within reclamation projects; patents to assignees.

4728. Issuance of patents to homestead entrymen within reclamation projects; issuance of final water-right certificates; conditions prerequisite to issuance.

4729. Patents and water-right certificates to reserve to the United States, a lien for sums due or to become due; forfeiture upon default in payment; right of redemption; sale after failure to redeem; bid of United States.

4730. Certificate of final payment; limitation of amount of land acquired or held by one person before payment in full of all charges; excess acquired by descent may be held two years; forfeiture of excess holdings.

4731. Appointment of agents to receive payments due on reclamation entries or water rights; copies of records of entries admissible as evidence.

4732. Jurisdiction of district courts to enforce provisions of this act.

4733. Assignment of desert-land entries within reclamation projects.

4734. Patents to desert-land entrymen within reclamation projects; proof required.

4735. Leaves of absence to homestead entrymen on lands proposed to be irrigated, until water is turned on.

4736. Homestead entries made prior to June 30, 1910, within reclamation projects not subject to contest for failure to maintain residence or to improve before water is available; re-establishment of residence.

4737. Withdrawal of notices of lands irrigable under reclamation act, limit of acreage, charges, etc.; modification or abrogation of water-right applications or contracts.

4738. Contracts for excess storage or carrying capacity provided under reclamation law, with irrigation systems under Carey Act, for distribution of water to individual users; restriction of use of water; charges.

4739. Co-operation with irrigation districts, etc., or water users, for construction or use of reservoirs, canals, etc.; title to and management of works; limitation of water to be furnished; right to control waters of streams in States not affected.

4740. Proceeds of contracts to be covered into reclamation fund.

4741. Use of earth, stone, and timber from public lands and forest reserves for construction of irrigation works.

4742. Disposition of proceeds of sales of material used and other property, and of moneys refunded in connection with operations.

4743. Expenditure from reclamation fund for rent of offices for Reclamation Service.

4744. Purchase of books, etc., needed in surveys and examinations for irrigation works.

4745. Assignments of pay by employees of Reclamation Service.

4746. Sale of land acquired under reclamation acts; appraisement; notice of sale.

4747. Conveyance to purchaser; limitation of amount.

4748. Proceeds of sale to be covered into reclamation fund and credited to project for which land was acquired.

4749. Change of levels of lakes, etc., in Oregon and California, in carrying out irrigation projects; disposition of lands acquired.

4750. Construction of dams in or across Yellowstone River in Montana in carrying out irrigation projects.

(1929)
DESERT LANDS

§ 4674. (Act March 3, 1877, c. 107, § 1.) Sale of desert lands; use of water; declaration; patent; quantity purchasable by one person.

It shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such" and upon payment of twenty-five cents per acre—to file a declaration under oath with the register and the receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same, within the period of three years thereafter. Provided however that the right to the use of water by the person so conducting the same, on or to any tract of desert land of six hundred and forty acres shall depend upon bona fide prior appropriation: and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation: and all surplus water over and above such actual appropriation and use, together with the water of all, lakes, rivers and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation and use of the public for irrigation, mining and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said section of land if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him. Provided, that no person shall be permitted to enter more than one tract of land and not to exceed six hundred and forty acres which shall be in compact form. (19 Stat. 377.)

This section and the two sections next following were an act entitled "An act to provide for the sale of desert lands in certain States and Territories," cited above.

Five further sections, numbered as sections 4–8 of this act, were added to it by amendment by Act March 3, 1891, c. 561, § 2, 26 Stat. 1096.

The right to make entry of desert lands under this act as amended was restricted to surveyed public lands of the character contemplated thereby, assessments of such entries were restricted, and the time to complete the irrigation works and make final proofs thereunder was extended, by Act March 28, 1908, c. 112, post., §§ 4081–4083.

Second desert-land entries, by persons whose former entries had been lost or abandoned, were provided for by Act March 28, 1908, c. 113, 35 Stat. 48, which was superseded by similar provisions applying to both desert-land and homestead entries, of Act Feb. 3, 1911, c. 34, ante, § 4556.

The aggregate quantity of land which any person could acquire under all of the land laws was limited to 320 acres by Act Aug. 30, 1880, c. 837, § 1 ante, § 4558, but this limitation is to be construed to include only agricultural lands and not mineral lands, by Act March 3, 1891, c. 561, § 17, ante, § 459. (1930)
§ 4675. (Act March 3, 1877, c. 107, § 2.) Desert lands defined.

All lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated. (19 Stat. 377.)

See notes to section 1 of this act, ante, § 4674.

§ 4676. (Act March 3, 1877, c. 107, § 3.) States in which act to apply.

This act shall only apply to and take effect in the States of California, Oregon and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office. (19 Stat. 377.)

See notes to section 1 of this act, ante, § 4674.

§ 4677. (Act March 3, 1877, c. 107, § 4, as amended, Act March 3, 1891, c. 561, § 2.) Irrigation plan to be filed.

At the time of filing the declaration hereinbefore required the party shall also file a map of said land, which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land, and prepare it to raise ordinary agricultural crops, and shall also show the source of the water to be used for irrigation and reclamation. Persons entering or proposing to enter separate sections, or fractional parts of sections, of desert lands, may associate together in the construction of canals and ditches for irrigating and reclaiming all of said tracts, and may file a joint map or maps showing their plan of internal improvements. (26 Stat. 1096.)

This section and the three sections next following were added to Act March 3, 1877, c. 107, as sections 4, 5, 7, and 8 thereof, by Act March 3, 1891, c. 561, § 2, 26 Stat. 1096.

Section 6, also added to this act by Act March 3, 1891, c. 561, § 2, provided that existing claims under Act March 3, 1877, c. 107, should not be affected by the amendment, but might be perfected under the original act, or under the later act, at the option of the claimant, and also repealed all acts and parts of acts in conflict with the amending act. It is omitted as temporary merely.

Colorado was included by the amending act. See section 8, post, § 4680.


No land shall be patented to any person under this act unless he or his assignors shall have expended in the necessary irrigation, reclamation, and cultivation thereof, by means of main canals and branch ditches, and in permanent improvements upon the land, and in the purchase of water rights for the irrigation of the same, at least three dollars per acre of whole tract reclaimed and
patented in the manner following: Within one year after making entry for such tract of desert land as aforesaid the party so entering shall expend not less than one dollar per acre for the purposes aforesaid: and he shall in like manner expend the sum of one dollar per acre during the second and also during the third year thereafter, the full sum of three dollars per acre is so expended. Said party shall file during each year with the register proof, by the affidavit of two or more credible witnesses, that the full sum of one dollar per acre has been expended in such necessary improvements during such year, and the manner in which expended, and at the expiration of the third year a map or plan showing the character and extent of such improvements. If any party who has made such application shall fail during any year to file the testimony aforesaid the lands shall revert to the United States, and the twenty-five cents advanced payment shall be forfeited to the United States, and the entry shall be canceled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinafore prescribed, provided that he then makes the required proof of reclamation to the aggregate extent of three dollars per acre: Provided, That proof be further required of the cultivation of one-eighth of the land. (26 Stat. 1096.)

See notes to section 4 of this act, ante, § 4677.

§ 4679. (Act March 3, 1877, c. 107, § 7, as amended, Act March 3, 1891, c. 561, § 2.) Issue of patent on making proofs; limitations of individual holding; additional proofs.

At any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof to the register and the receiver of the reclamation and cultivation of said land to the extent and cost and in the manner aforesaid substantially in accordance with the plans herein provided for, that he or she is a citizen of the United States, and upon payment to the receiver of the additional sum of one dollar per acre for said land, a patent shall issue therefor to the applicant or his assignee, but no person or association of persons shall hold by assignment otherwise prior to the issue of patent, more than three hundred twenty acres of such arid or desert lands but this section shall apply to entries made or initiated prior to the approval of this act. Provided, however, That additional proofs may be required at any time within the period prescribed by law, and that the claims of entries made under this or any preceding act shall be subject to contest, as provided by the law, relating to homestead cases, for illegal inception, abandonment, or failure to comply with the requirements of law, and upon satisfactory proof thereof shall be canceled, the lands, and moneys paid therefor, shall be forfeited to the United States. (26 Stat. 1096.)

See notes to section 4 of this act, ante, § 4677.

The period of four years prescribed by this section was extended to five years as to pending entries where the time for final proof had not expired prior to Jan. 1, 1884, by Act Aug. 4, 1894, c. 208, 23 Stat. 223. That provision is omitted as temporary merely. (1932)
§ 4680. (Act March 3, 1877, c. 107, § 8, as amended, Act March 3, 1891, c. 561, § 2.) Act to apply in Colorado; resident citizens only entitled to enter.

The provisions of the act to which this is an amendment, and the amendments thereto, shall apply to and be in force in the State of Colorado, as well as the States named in the original act; and no person shall be entitled to make entry of desert land except he be a resident citizen of the State or Territory in which the land sought to be entered is located. (26 Stat. 1096.)

See notes to section 4 of this act, ante, § 4677.

Entries on affidavits made before a United States court commissioner or any officer authorized to administer oaths were validated by Act Aug. 4, 1894, c. 211, 28 Stat. 227.

The administration of oaths by United States court commissioners in preliminary affidavits and final proofs was provided for by Act March 2, 1895, c. 174, ante, §§ 4547-4549.

All entries under the desert-land laws, in which final proof and payments had been made and certificates had been issued, and to which there were no adverse claims originating prior to any final entry and which had been sold or incumbered prior to March 1, 1898, and after final entry, to bona fide purchasers or incumbrancers, for a valuable consideration, were, unless, upon an investigation by a government agent, fraud on the part of the purchasers should be found, to be confirmed and patented upon presentation of satisfactory proof to the Land Department of such sale or incumbrance, by Act March 3, 1891, c. 561, § 7, post, § 5113, notwithstanding a proviso in said act authorising the Commissioner of the General Land Office to suspend entries on the public lands for correction of clerical errors; and, after the lapse of two years from the date of the issuance of the receiver's receipt upon the final entry of any tract of land, there being no pending contest or protest against the validity of the entry, the entryman was to be entitled to a patent for the land entered by him, by said act.

All persons, duly qualified to make entry under the desert-land laws, who had occupied any lands in the Algodones land grant with the intention of entering the same under the desert-land laws, were entitled, within a certain time, to make their entries, by Act Jan. 14, 1901, c. 12, § 2, 31 Stat. 730. That provision is omitted as special, and temporary merely.

The undisposed-of lands on the abandoned Fort Buford military reservation were subject to entry under the desert-land laws, by Act May 18, 1900, c. 494, 31 Stat. 150. That provision is omitted, also, as special.

§ 4681. (Act March 28, 1908, c. 112, § 1.) Desert-land entries restricted to surveyed lands; preference of persons in possession of lands prior to survey.

From and after the passage of this Act the right to make entry of desert lands under the provisions of the Act approved March third, eighteen hundred and seventy-seven, entitled "An Act to provide for the sale of desert lands in certain States and Territories," as amended by the Act approved March third, eighteen hundred and ninety-one, entitled "An Act to repeal timber-culture laws, and for other purposes," shall be restricted to surveyed public lands of the character contemplated by said Acts, and no such entries of unsurveyed lands shall be allowed or made of record: Provided, however, That any individual qualified to make entry of desert lands under said Acts who has, prior to survey, taken possession of a tract of unsurveyed desert land not exceeding in area three hundred and twenty acres in compact form, and has reclaimed or has in good faith com-
§ 4681. THE PUBLIC LANDS (Tit. 32)

...menced the work of reclaiming the same, shall have the preference right to make entry of such tract under said Acts, in conformity with the public land surveys, within ninety days after the filing of the approved plat of survey in the district land office. (35 Stat. 52.)

This section and the two sections next following were an act entitled “An act limiting and restricting the right of entry and assignment under the desert-land law and authorizing an extension of time within which to make final proof.”

Act March 3, 1877, c. 107, as amended by Act March 8, 1891, c. 561, § 2, mentioned in this section, is ante, §§ 4674–4680.

§ 4682. (Act March 28, 1908, c. 112, § 2.) Assignments of desert-land entries restricted.

From and after the date of the passage of this Act no assignment of an entry made under said Acts shall be allowed or recognized, except it be to an individual who is shown to be qualified to make entry under said Acts of the land covered by the assigned entry, and such assignments may include all or part of an entry; but no assignment to or for the benefit of any corporation or association shall be authorized or recognized. (35 Stat. 52.)

Provisions applicable to Imperial County, California, only, authorizing completion of desert-land entries by assignees in good faith, and by holders in good faith of second desert-land entries, were made by Act June 25, 1910, c. 437, 36 Stat. 867.

§ 4683. (Act March 28, 1908, c. 112, § 3.) Time to complete irrigation works and make final proofs under desert-land entries extended.

Any entryman under the above Acts who shall show to the satisfaction of the Commissioner of the General Land Office that he has in good faith complied with the terms, requirements, and provisions of said Acts, but that because of some unavoidable delay in the construction of the irrigating works, intended to convey water to the said lands, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said land, as required by said Acts, shall, upon filing his corroborated affidavit with the land office in which said land is located, setting forth said facts, be allowed an additional period of not to exceed three years, within the discretion of the Commissioner of the General Land Office, within which to furnish proof as required by said Acts of the completion of said work. (35 Stat. 52.)

Previous provisions for extension of time for making final proofs under entries of desert lands in certain cases were made by Act Aug. 4, 1894, c. 206, 28 Stat. 226.

A further extension of time to make final proof on desert-land entries in the counties of Benton, Yakima, and Klickitat, in the State of Washington, was authorized by Act Feb. 28, 1911, c. 180, 36 Stat. 900.

The Secretary of the Interior was authorized to grant an additional extension of time for making final proof to desert-land entrymen by Act April 30, 1912, c. 101, post, § 4684.

(1934)
§ 4684. (Act April 30, 1912, c. 101.) Further extension of time for final proof in desert-land entries to be granted by the Secretary of the Interior; affidavit for extension; limit of extension.

The Secretary of the Interior may, in his discretion, in addition to the extension authorized by existing law, grant to any entryman under the desert-land laws a further extension of the time within which he is required to make final proof: Provided, That such entryman shall, by his corroborated affidavit filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of irrigation works intended to convey water to the land embraced in his entry he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor; but such extension shall not be granted for a period of more than three years, and this Act shall not affect contests initiated for a valid existing reason: Provided, That the total extension of the statutory period for making final proof that may be allowed in any one case under this Act, and any other existing statutes of either general or local application, shall be limited to six years in the aggregate. (37 Stat. 106.)

This was an act entitled "An act authorizing the Secretary of the interior to grant further extension of time within which to make proof on desert-land entries."

Previous provisions for extension of time to make final proof on desert-land entries were made by Act March 28, 1908, c. 112, § 3, ante, § 4683.

GRANTS OF DESERT LANDS TO STATES FOR RECLAMATION (THE CAREY ACT)


That to aid the public land States in the reclamation of the desert lands therein, and the settlement, cultivation and sale thereof in small tracts to actual settlers, the Secretary of the Interior with the approval of the President, be, and hereby is, authorized and empowered, upon proper application of the State to contract and agree, from time to time, with each of the States in which there may be situated desert lands as defined by the Act entitled "An Act to provide for the sale of desert land in certain States and Territories," approved March third, eighteen hundred and seventy-seven, and the Act amendatory thereof, approved March third, eighteen hundred and ninety-one, binding the United States to donate, grant and patent to the State free of cost for survey or price such desert lands, not exceeding one million acres in each State, as the State may cause to be irrigated, reclaimed occupied, and not less than twenty acres of each one hundred and sixty-acre tract cultivated by actual settlers, within ten years next after the passage of this Act, as thoroughly as is required of citizens who may enter under the said desert land law.

Act March 3, 1877, c. 107, and Act March 3, 1891, c. 561, § 2, mentioned in this paragraph, are set forth ante, §§ 4674-4680. They enumerated the (1935)
§ 4685 THE PUBLIC LANDS (Tit. 32)

States in which desert lands were to be subject to sale, and defined desert lands.

(2) Map showing plan of irrigation; regulations for reservation.

Before the application of any State is allowed or any contract or agreement is executed or any segregation of any of the land from the public domain is ordered by the Secretary of the Interior, the State shall file a map of the said land proposed to be irrigated which shall exhibit a plan showing the mode of the contemplated irrigation and which plan shall be sufficient to thoroughly irrigate and reclaim said land and prepare it to raise ordinary agricultural crops and shall also show the source of the water to be used for irrigation and reclamation, and the Secretary of the Interior may make necessary regulations for the reservation of the lands applied for by the States to date from the date of the filing of the map and plan of irrigation, but such reservation shall be of no force whatever if such map and plan of irrigation shall not be approved.

(3) States may contract for reclamation and settlement.

Any State contracting under this section is hereby authorized to make all necessary contracts to cause the said lands to be reclaimed, and to induce their settlement and cultivation in accordance with and subject to the provisions of this section; but the State shall not be authorized to lease any of said lands or to use or dispose of the same in any way whatever, except to secure their reclamation, cultivation and settlement.

(4) Patents to States or assigns; limit of amount to one person; disposal of funds derived from sale.

As fast as any State may furnish satisfactory proof according to such rules and regulations as may be prescribed by the Secretary of the Interior, that any of said lands are irrigated, reclaimed and occupied by actual settlers, patents shall be issued to the State or its assigns for said lands so reclaimed and settled. Provided, That said States shall not sell or dispose of more than one hundred and sixty acres of said lands to any one person, and any surplus of money derived by any State from the sale of said lands in excess of the cost of their reclamation, shall be held as a trust fund for and be applied to the reclamation of other desert lands in such State. (28 Stat. 422.)

This section, commonly known as the Carey Act, was part of the sundry civil appropriation act for the fiscal year 1885, cited above. The portion of the section omitted here provided an appropriation for the examination of the lands. It was amended by Act June 11, 1898, c. 420, § 1, post, § 4686, and again amended by Act March 3, 1901, c. 853, § 3, post, § 4687.

The provisions of this section and the amendments thereto, were extended to the Territories of New Mexico and Arizona, by Act Feb. 18, 1900, § 1, post, § 4690.

Subsequent provisions made subject to the terms of this section and amendments thereto an additional one million acres of arid lands, in each of several states, as follows:

In the State of Idaho. Res. May 25, 1908, No. 28, post, § 4689.

In each of the States of Idaho and Wyoming. Act May 27, 1908, c. 200, § 1, post, § 4689.

In the State of Nevada. Act March 4, 1911, c. 265, § 1, post, § 4691.


The provisions of this section and amendments thereof were extended over (1936)
and apply to desert lands within a portion of the former Ute Indian reservation in the State of Colorado, by Act Feb. 24, 1906, c. 178, post. §§ 4693, 4694.

The provisions of this section were made applicable to the lands in the former Fort Bridger Military Reservation, in Uinta County, Wyoming, by Act Feb. 16, 1911, c. 90, 30 Stat. 913.

Temporary withdrawal from settlement or entry of lands for which a state proposes to make application under this section was authorized by Act March 15, 1910, c. 96, post, § 4695.

State laws relating to irrigation and vested rights acquired thereunder, and rights of any State or of the Federal government, or of any landowner, proprietor, or user of water, in waters of interstate streams, were not affected by the Reclamation Act of June 17, 1902, c. 1063, by section 8 of that act, post, § 4707.


Under any law heretofore or hereafter enacted by any State, providing for the reclamation of arid lands, in pursuance and acceptance of the terms of the grant made in section four of an Act entitled "An Act making appropriations for the sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five," approved August eighteenth, eighteen hundred and ninety-four, a lien or liens is hereby authorized to be created by the State to which such lands are granted and by no other authority whatever, and when created shall be valid on and against the separate legal subdivisions of land reclaimed, for the actual cost and necessary expenses of reclamation and reasonable interest thereon from the date of reclamation until disposed of to actual settlers; and when an ample supply of water is actually furnished in a substantial ditch or canal, or by artesian wells or reservoirs, to reclaim a particular tract or tracts of such lands, then patents shall issue for the same to such state without regard to settlement or cultivation: Provided, That in no event, in no contingency, and under no circumstances shall the United States be in any manner directly or indirectly liable for any amount of any such lien or liability, in whole or in part. (29 Stat. 413.)

This was a provision of the sundry civil appropriation act for the fiscal year 1897, cited above.

Act Aug. 18, 1894, c. 301, § 4, mentioned in this provision, is set forth ante, § 4685.

See notes to said Act Aug. 18, 1894, c. 301, § 4, ante, § 4685.

§ 4687. (Act March 3, 1901, c. 853, § 3.) When time limit for reclamation begins to run; failure to reclaim; restoration to public domain.

Section four of the Act of August eighteenth, eighteen hundred and ninety-four, entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes," is hereby amended so that the ten years' period within which any State shall cause the lands applied for under said Act to be irrigated and reclaimed, as provided in said section as amended by the Act of June eleventh, eighteen hundred and ninety-six, shall begin to run from the date of approval by the Secretary of the Interior of the

Comp.St.'12—122 (1937)
§ 4687  THE PUBLIC LANDS

State's application for the segregation of such lands; and if the State fails within said ten years to cause the whole or any part of the lands so segregated to be so irrigated and reclaimed, the Secretary of the Interior may, in his discretion, continue said segregation for a period of not exceeding five years, or may, in his discretion, restore such lands to the public domain. (31 Stat. 1188.)

This section was part of the sundry civil appropriation act for the fiscal year 1902, cited above.
Act Aug. 18, 1894, c. 301, § 4, mentioned and amended in this section, is set forth ante, § 4685.

§ 4688. (Res. May 25, 1908, No. 28.) Additional arid lands made available to State of Idaho for reclamation.

That an additional one million acres of arid lands within the State of Idaho be made available and subject to the terms of section four of an Act of Congress entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes," approved August eighteenth, eighteen hundred and ninety-four, and by amendments thereto, and that the State of Idaho be allowed, under the provisions of said Acts, said additional area, or so much thereof as may be necessary for the purposes and under the provisions of said Acts. (35 Stat. 577.)

Act Aug. 18, 1894, c. 301, § 4, and amendments thereto, mentioned in this section, are set forth ante, §§ 4685–4687.

An additional 1,000,000 acres within each of the states of Idaho and Wyoming were made available to those states respectively, in language similar to that of this joint resolution, by a provision of Act May 27, 1908, c. 200, § 4, post, § 4689.

§ 4689. (Act May 27, 1908, c. 200, § 4.) Additional arid lands made available to states of Idaho and Wyoming for reclamation.

Arid lands in Idaho, and Wyoming: That an additional one million acres of arid lands within each of the States of Idaho, and Wyoming be made available and subject to the terms of section four of an Act of Congress entitled "An Act making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-five, and for other purposes," approved August eighteenth, eighteen hundred and ninety-four, and by amendments thereto, and that the States of Idaho, and Wyoming be allowed under the provisions of said Acts said additional area or so much thereof as may be necessary for the purposes and under the provisions of said Acts. (35 Stat. 347.)

Act Aug. 18, 1894, c. 301, § 4, and amendments thereto, mentioned in this section, are set forth ante, §§ 4685–4687.

A similar provision, making 1,000,000 acres available to the state of Idaho, was made by Res. May 25, 1908, No. 28, ante, § 4688.

§ 4690. (Act Feb. 18, 1909, c. 150, § 1.) Provisions for grants of arid lands to states for reclamation extended to territories of New Mexico and Arizona.

All the provisions of section four of the Act of Congress approved August eighteenth, eighteen hundred and ninety-four, being chapter (1938)
three hundred and one to Supplement to Revised Statutes of the
United States, entitled "An Act making appropriations for sundry
civil expenses of the Government for the fiscal year ending June
thirty, eighteen hundred and ninety-five, and for other purposes,"
and the amendments thereto be, and the same are hereby, extended
to the Territories of New Mexico and Arizona, and that said Terri-
tories upon complying with the provisions of said Act shall be enti-
tled to have and receive all of the benefits therein conferred upon the
States. (35 Stat. 638.)

Act Aug. 18, 1894, c. 301, § 4, and the amendments thereto, mentioned
in this section, are set forth ante, §§ 4685–4687.
The Territories of Arizona and New Mexico were admitted into the Union
under the provisions of Act June 20, 1910, c. 310, 36 Stat. 557, and Res.
Aug. 21, 1911, No. 8, 37 Stat. 59.

§ 4691. (Act March 4, 1911, c. 285, § 1.) Additional arid lands
made available to State of Nevada for reclamation.
An additional one million acres of arid lands within the State of
Nevada is hereby made available and subject to the terms of section
four of an Act of Congress entitled "An Act making appropriations
for sundry civil expenses of the Government for the fiscal year ending
June thirty, eighteen hundred and ninety-five, and for other
purposes," approved August eighteenth, eighteen hundred and ninety-
four, and by amendments thereto, and the State of Nevada is allowed
under the provisions of said Acts said additional area, or so much
thereof as may be necessary for the purposes and under the provisions
of said Acts. (36 Stat. 1417.)

Act Aug. 18, 1894, c. 301, § 4, and amendments thereto, mentioned in this
section, are set forth ante, §§ 4685–4687.

§ 4692. (Res. Aug. 21, 1911, No. 7.) Additional arid lands made
available to State of Colorado for reclamation.
That an additional one million acres of arid lands within the
State of Colorado be made available and subject to the terms of section
four of an Act of Congress entitled "An Act making appro-
priations for sundry civil expenses of the Government for the fiscal
year ending June thirty, eighteen hundred and ninety-five, and for
other purposes," approved August eighteenth, eighteen hundred and
ninety-four, and by amendments thereto, and that the State of Col-
orado be allowed, under the provisions of said Acts, said additional
area, or so much thereof as may be necessary for the purposes and
under the provisions of said Acts. (37 Stat. 38.)

Act Aug. 18, 1894, c. 301, § 4, and amendments thereto, mentioned in this
section, are set forth ante, §§ 4685–4687.

§ 4693. (Act Feb. 24, 1909, c. 178, § 1.) Provisions for grants of
arid lands to States for reclamation extended to desert lands
within part of former Ute Indian Reservation in State of Color-
dado.
That the provision of section four of "An Act making appro-
priation for sundry civil expenses of the Government for the fiscal
year ending June thirty, eighteen hundred and ninety-five, and
for other purposes," approved August eighteenth, eighteen hun-
(1939)
§ 4698. THE PUBLIC LANDS

(dred and ninety-four, and the amendments thereof, approved June
eleventh, eighteen hundred and ninety-six, and March third, nineteen
hundred and one, respectively, be, and are hereby, extended over and
shall apply to the desert lands within the limits of all that portion of
the former Ute Indian Reservation, not included in any national forest,
in the State of Colorado, described and embraced in the Act entitled
"An Act relating to lands in Colorado lately occupied by the Uncom-
pahgre and White River Ute Indians," approved July twenty-eighth,
eighteen hundred and eighty-two: Provided, That before a patent
shall issue for any of the lands aforesaid under the terms of the Act
approved August eighteenth, eighteen hundred and ninety-four, and
amendments thereto, the State of Colorado shall pay into the Treasury
of the United States the sum of one dollar and twenty-five cents per
acre for the lands so patented, and the money so paid shall be subject
to the provisions of section three of the Act of June fifteenth, eighteen
hundred and eighty, entitled "An Act to accept and ratify the agree-
ments submitted by the confederated bands of Ute Indians in Colorado
for the sale of their reservation in said State, and for other purposes,
and to make the necessary appropriation for carrying out same."
(35 Stat. 644.)

This section and the section next following were an act entitled "An act to
provide for the granting and patenting to the State of Colorado desert lands
within the former Ute Indian Reservation in said State."
Act Aug. 18, 1894, § 4, and the amendments thereto, mentioned in this
section, are set forth ante, §§ 4685—4697.

§ 4694. (Act Feb. 24, 1909, c. 178, § 2.) Restriction of lands to
be included under provisions of act.

No lands shall be included in any tract to be segregated under
the provisions of this Act on which the United States Government
has valuable improvements, or which have been reserved for any
Indian schools or farm purposes. (35 Stat. 645.)

§ 4695. (Act March 15, 1910, c. 96.) Temporary withdrawal from
settlement or entry of lands for which application under Carey
Act is proposed.

To aid in carrying out the purposes of section four of the Act
of August eighteenth, eighteen hundred and ninety-four, entitled
"An Act making appropriations for sundry civil expenses of the
Government for the fiscal year ending eighteen hundred and nine-
ty-five, and for other purposes," it shall be lawful for the Secre-
tary of the Interior, upon application by the proper officer of any
State or Territory to which said section applies, to withdraw tem-
porarily from settlement or entry areas embracing lands for which
the State or Territory proposes to make application under said sec-
tion, pending the investigation and survey preliminary to the filing of
the maps and plats and application for segregation by the State or
Territory: Provided, That if the State or Territory shall not present
its application for segregation and maps and plats within one year
after such temporary withdrawal the lands so withdrawn shall be re-

(1910)
stored to entry as though such withdrawal had not been made. (36 Stat. 237.)

This was an act entitled "An act authorizing the Secretary of the Interior to make temporary withdrawals of public lands for certain purposes." Act Aug. 19, 1894, c. 301, § 4, mentioned in this act, is set forth ante, § 4685.

RECLAMATION OF ARID LANDS BY THE UNITED STATES

§ 4696. (Act Oct. 2, 1888, c. 1069, § 1.) Surveys in arid regions; reservations for reservoir sites, etc.; opening lands reserved to homestead entries.

For the purpose of investigating the extent to which the arid region of the United States can be redeemed by irrigation, and the segregation of the irrigable lands in such arid region, and for the selection of sites for reservoirs and other hydraulic works necessary for the storage and utilization of water for irrigation and the prevention of floods and overflows, * * * the work to be performed by the Geological Survey, under the direction of the Secretary of the Interior. * * * And all the lands which may hereafter be designated or selected by such United States surveys for sites for reservoirs, ditches or canals for irrigation purposes and all the lands made susceptible of irrigation by such reservoirs, ditches or canals are from this time henceforth hereby reserved from sale as the property of the United States, and shall not be subject after the passage of this act, to entry, settlement or occupation until further provided by law: Provided, That the President may at any time in his discretion, by proclamation, open any portion or all of the lands reserved by this provision to settlement under the homestead laws. (25 Stat. 526.)

These were provisions of the sundry civil appropriation act for the fiscal year 1889, cited above.

The words omitted here stated the amount appropriated for the fiscal year for the work authorized, and required reports to Congress of expenditures under said appropriation.

A subsequent appropriation for the same purposes, accompanied by provisions similar to those of this act, and a requirement of annual reports of expenditures under that and any future appropriations, but without the provisions of this act for reservation of reservoir sites, etc., as made by the similar act for the next following, Act March 2, 1889, c. 411, § 1, ante, § 776.

But so much of this act as provided for withdrawal of public lands from entry, etc., was repealed by Act Aug. 30, 1890, c. 837, § 1, post, § 4697. Said repealing act, however, provided for the reservation of sites for reservoirs, etc.; and the sites so reserved were limited to the land actually necessary, by Act March 3, 1891, c. 561, § 17, post, § 4698.

The provisions of this act, and subsequent provisions amendatory thereof and supplementary thereto, of Act Aug. 30, 1890, c. 837, § 1, post, § 4697, and Act March 3, 1891, c. 561, § 17, post, § 4698, were to a great extent superseded by the provisions, relating to the same subjects, of the Reclamation Act of June 17, 1902, c. 1098, post, §§ 4700-4708.

§ 4697. (Act Aug. 30, 1890, c. 837, § 1.) Repeal in part of Act Oct. 2, 1888, c. 1069; entries on arid lands; reservation of reservoir sites.

So much of the act of October second, eighteen hundred and eighty-eight, entitled, "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," as provides for the withdrawal of the public lands from entry, occupation and settlement, is hereby repealed, and all entries made or claims initiated in good faith and valid but for said act, shall be recognized and may be perfected in the same manner as if said law had not been enacted, except that reservoir sites heretofore located or selected shall remain segregated and reserved from entry or settlement as provided by said act, until otherwise provided by law, and reservoir sites hereafter located or selected on public lands shall in like manner be reserved from the date of the location or selection thereof. (26 Stat. 391.)

This was a provision of the sundry civil appropriation act for the fiscal year 1891, cited above.

The provision of Act Oct. 2, 1888, c. 1069, repealed in part, is set forth ante, § 4698.

The provision in another paragraph of this act, set forth ante, § 4558, limiting any one person entering under any of the public land laws to 320 acres in the aggregate, did not include entries validated by this section.

The reservation of reservoir sites was limited to the land actually necessary by Act March 3, 1891, c. 561, § 17, post, § 4698.

The provisions of this act, as well as those of Act Oct. 2, 1888, c. 1069, § 1, ante, § 4698, repealed in part thereby, relating to the withdrawal from entry of public lands, were superseded by the provisions, relating to the same subject, of the Reclamation Act of June 17, 1902, c. 1003, §§ 3, 4, post, §§ 4702, 4703.

§ 4698. (Act March 3, 1891, c. 561, § 17.) Reservoir sites to include only necessary land.

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. * * (26 Stat. 1101.)

This section was part of an act repealing the timber-culture laws. Other sections are set forth or referred to post, § 5116.

The portion of this section omitted here limited the maximum amount of land any one person may enter under all of the public-land laws. It is set forth ante, § 4558.

The provisions of Act Oct. 2, 1888, c. 1069, and amendments thereto, mentioned in this section, are set forth ante, §§ 4606-4608.

The Secretary of the Interior was authorized to file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over any reservoir site, by Act March 3, 1898, c. 427, § 1, post, § 4945.

§ 4699. (Act Feb. 26, 1897, c. 335.) Reservoir sites to be open to use for right of way; occupancy and control by states.

All reservoir sites reserved or to be reserved shall be open to use and occupation under the right-of-way Act of March third, eighteen hundred and ninety-one, and any State is hereby authorized to improve and occupy such reservoir sites to the same
extant as an individual or private corporation, under such rules and
determinations as the Secretary of the Interior may prescribe: Provided,
That the charges for water coming in whole or part from reservoir
sites used or occupied under the provisions of this Act shall always
be subject to the control and regulation of the respective States and
Territories in which such reservoirs are in whole or part situate. (29
Stat. 599.)

This was an act entitled "An act to provide for the use and occupation
of reservoir sites reserved."

Act March 3, 1891, c. 561, §§ 18–21, granting rights of way for canals
and ditches through public lands, is set forth post, §§ 4934–4937.

§ 4700. (Act June 17, 1902, c. 1093, § 1.) Receipts from public
lands in certain States and Territories appropriated as re-
clamation fund; insufficiency of proceeds of other public lands
for support of agricultural colleges to be supplied from other
moneys.

All moneys received from the sale and disposal of public lands
in Arizona, California, Colorado, Idaho, Kansas, Montana, Ne-
braska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon,
South Dakota, Utah, Washington, and Wyoming, beginning with
the fiscal year ending June thirtieth, nineteen hundred and one,
including the surplus of fees and commissions in excess of allowances
to registers and receivers, and excepting the five per centum of the
proceeds of the sales of public lands in the above States set aside by
law for educational and other purposes, shall be, and the same are
hereby, reserved, set aside, and appropriated as a special fund in the
Treasury to be known as the "reclamation fund," to be used in the
examination and survey for and the construction and maintenance of
irrigation works for the storage, diversion, and development of
waters for the reclamation of arid and semiarid lands in the said
States and Territories, and for the payment of all other expenditures
provided for in this Act: Provided, That in case the receipts from
the sale and disposal of public lands other than those realized from
the sale and disposal of lands referred to in this section are insuf-
ficient to meet the requirements for the support of agricultural col-
leges in the several States and Territories, under the Act of August
thirtieth, eighteen hundred and ninety, entitled "An Act to apply a
portion of the proceeds of the public lands to the more complete
endowment and support of the colleges for the benefit of agriculture
and the mechanic arts, established under the provisions of an Act
of Congress approved July second, eighteen hundred and sixty-two,"
the deficiency, if any, in the sum necessary for the support of the
said colleges shall be provided for from any moneys in the Treasury
not otherwise appropriated. (32 Stat. 388.)

This was the first section of the Reclamation Act or National Irrigation
Act of 1902. It was entitled "An act appropriating the receipts from the
sale and disposal of public lands in certain States and Territories to the
construction of irrigation works for the reclamation of arid lands."

Sections 2–8 and 10 of the act are set forth post, §§ 4701–4708.
Section 9 of that act required the major portion of the funds arising from

(1943)
§ 4700. THE PUBLIC LANDS

the sale of lands within each State or Territory to be expended, so far as practicable, for the benefit of lands within such State or Territory. It was repealed by Act June 25, 1910, c. 407, § 6, 36 Stat. 838.

This act superseded to a great extent the previous provisions relating to irrigation of arid lands, contained in Act Oct. 2, 1888, c. 1069, and subsequent amendatory and supplementary provisions, ante, §§ 4696–4698.

The provisions of this act were extended to the state of Texas, by Act June 12, 1906, c. 3288, post, § 4700.

The act for the admission to the Union of the States of New Mexico and Arizona reserved to the United States all rights and powers for carrying out the provisions of this act and acts amendatory thereof or supplementary thereunto, to the same extent as if each of said States had remained a Territory. Act June 20, 1910, c. 310, § 2, subsec. 7, and § 20, subsec. 7, 36 Stat. 558, 569.

Appropriations for the construction and maintenance of irrigation works for Indian reservations and allotments are made in the annual Indian appropriation acts. The provisions for the fiscal year 1914, were contained in Act June 30, 1913, c. 4, § 1, 38 Stat. 78.

The return to the reclamation fund of the cost of construction of works for irrigation, from charges on the lands irrigated, and the purposes for which the fund may be used, were provided for by sections 4–7 of this act, post, §§ 4703–4706.

Proceeds of sales of material utilized for temporary work and structures in connection with the operations under this act, as well as of sales of other condemned property purchased under its provisions, and any moneys refunded in connection with operations under it, were to be covered into the reclamation fund, by Act March 3, 1906, c. 1459, post, § 4742.

Moneys derived from the sale of lands acquired under this act, but not needed for the purposes thereof, were to be covered into the reclamation fund, by Act Feb. 2, 1911, c. 82, § 3, post, § 4748.

Moneys received under contracts for impounding, storage, and carriage of water, with irrigation systems operating under the Carey Act, authorised by Act Feb. 21, 1911, c. 141, post, §§ 4738–4740, were to be covered into the reclamation fund, by section 3 of said act, post, § 4740.

Provisions for advances from the Treasury to the reclamation fund, and for the issue of certificates of indebtedness to provide funds therefor, to be repaid out of the annual receipts of the reclamation fund, were contained in Act June 25, 1910, c. 407, amended by Act Feb. 18, 1911, c. 111, post, §§ 4710–4714.

The Secretary of the Interior was authorised, in carrying out any project under this act, to make such arrangement and agreement to provide for the irrigation of lands allotted to Indians as he might deem best for their interests, by a provision contained in the Indian appropriation act for the fiscal year 1906, Act April 30, 1908, c. 153, 35 Stat. 55, and repeated in the similar appropriation act for the fiscal year 1910, Act March 3, 1909, c. 263, ante, § 4205.

§ 4701. (Act June 17, 1902, c. 1093, § 2.) Surveys for and location and construction of irrigation works; reports to Congress.

The Secretary of the Interior is hereby authorized and directed to make examinations and surveys for, and to locate and construct, as herein provided, irrigation works for the storage, diversion, and development of waters, including artesian wells, and to report to Congress at the beginning of each regular session as to the results of such examinations and surveys, giving estimates of cost of all contemplated works, the quantity and location of the lands which can be irrigated therefrom, and all facts relative to the practicability of each irrigation project; also the cost of works in process of con-

(1944)
struction as well as of those which have been completed. (32 Stat. 388.)

This section superseded the previous similar provisions for investigations and surveys by the Geological Survey and for reports thereof by the Director of the Geological Survey, contained in Act Oct. 2, 1888, c. 1069, ante, § 4696, and Act March 2, 1888, c. 411, § 1, 25 Stat. 960.

The purchase of books, periodicals, and other publications needed in carrying out the surveys and examinations authorized by this act was authorized by a provision of Act May 27, 1908, c. 200, § 1, post, § 4744.

Assignments of pay by employees of the Reclamation Service were authorized by a further provision of Act May 27, 1908, c. 200, § 1, post, § 4745.

§ 4702. (Act June 17, 1902, c. 1093, § 3.) Withdrawal from entry of lands required for works and lands susceptible of irrigation; lands to be irrigated subject to entry under homestead laws; commutation provisions not applicable.

The Secretary of the Interior shall, before giving the public notice provided for in section four of this Act, withdraw from public entry the lands required for any irrigation works contemplated under the provisions of this Act, and shall restore to public entry any of the lands so withdrawn when, in his judgment, such lands are not required for the purposes of this Act; and the Secretary of the Interior is hereby authorized, at or immediately prior to the time of beginning the surveys for any contemplated irrigation works, to withdraw from entry, except under the homestead laws, any public lands believed to be susceptible of irrigation from said works: Provided, That all lands entered and entries made under the homestead laws within areas so withdrawn during such withdrawal shall be subject to all the provisions, limitations, charges, terms, and conditions of this Act; that said surveys shall be prosecuted diligently to completion, and upon the completion thereof, and of the necessary maps, plans, and estimates of cost, the Secretary of the Interior shall determine whether or not said project is practicable and advisable, and if determined to be impracticable or unadvisable he shall thereupon restore said lands to entry; that public lands which it is proposed to irrigate by means of any contemplated works shall be subject to entry only under the provisions of the homestead laws in tracts of not less than forty nor more than one hundred and sixty acres, and shall be subject to the limitations, charges, terms, and conditions herein provided: Provided, That the commutation provisions of the homestead laws shall not apply to entries made under this Act. (32 Stat. 388.)

Lands needed for town-site purposes in connection with irrigation projects may be withdrawn from public entry, and surveyed and subdivided and sold as town lots, by Act April 16, 1906, c. 1631, post, §§ 4715-4719.

Further provisions relating to the subdivision of lands to be irrigated were contained in Act June 27, 1906, c. 3559, post, §§ 4720-4724.

Requirements to be performed by the entryman of lands to be irrigated, in addition to compliance with the homestead laws, are contained in section 5 of this act, post, § 4714.

Assignments of homestead entries of lands within reclamation projects were authorized by Act June 23, 1910, c. 357, post, § 4727.

Provisions for the issuance of patents upon completed homestead entries
within reclamation projects, and of final water-right certificates to purchasers of water rights were made by Act Aug. 9, 1912, c. 278, post, §§ 4728-4732.

No homestead entry made prior to June 25, 1910, within a reclamation project, was to be subject to contest for the failure of the entryman to maintain a residence or make improvements thereon prior to the time when water was available for the irrigation of the lands by Act April 30, 1912, c. 100, post, § 4736.

Leaves of absence to homesteaders upon lands proposed to be irrigated under this act, where water is not available for irrigation, were authorized by Act June 25, 1910, c. 432, post, § 4735.

All public lands in section 8, township 1 south, range 2 west, and in sections 2, 4, 6, 10, and 12, in township 1 south, range 3 west, San Bernardino base and meridian, in California, were withdrawn from settlement and entry and reserved for the purpose of aiding in the conservation of the waters of the San Bernardino Valley, and the right to conduct to and distribute over said lands flood or waste waters to replenish the supply of underground waters in said valley was granted to any individual or corporation by Act Feb. 20, 1908, c. 195, 35 Stat. 941.

§ 4703. (Act June 17, 1902, c. 1093, § 4.) Contracts for irrigation works; public notice of lands irrigable, limit of entry, charges, etc.; eight hours to be a day’s work; no Mongolian labor to be employed.

Upon the determination by the Secretary of the Interior that any irrigation project is practicable, he may cause to be let contracts for the construction of the same, in such portions or sections as it may be practicable to construct and complete as parts of the whole project, providing the necessary funds for such portions or sections are available in the reclamation fund, and thereupon he shall give public notice of the lands irrigable under such project, and limit of area per entry, which limit shall represent the acreage which, in the opinion of the Secretary, may be reasonably required for the support of a family upon the lands in question; also of the charges which shall be made per acre upon the said entries, and upon lands in private ownership which may be irrigated by the waters of the said irrigation project, and the number of annual installments, not exceeding ten, in which such charges shall be paid and the time when such payments shall commence. The said charges shall be determined with a view of returning to the reclamation fund the estimated cost of construction of the project, and shall be apportioned equitably: Provided, That in all construction work eight hours shall constitute a day’s work, and no Mongolian labor shall be employed thereon. (32 Stat. 389.)

The use of earth, stone, and timber from the public lands and from the forest reserves in the construction of irrigation works was authorized by Act Feb. 8, 1905, c. 552, post, § 4741.

Changes of the levels of certain lakes, etc., in Oregon and California, in carrying out irrigation projects under this act, were authorized by Act Feb. 8, 1905, c. 567, post, § 4749.

The construction of dams in or across Yellowstone River in Montana, in carrying out irrigation projects under this act, was authorized by Act March 3, 1905, c. 1476, post, § 4750.

The Secretary of the Interior was authorized to withdraw any notice issued under this section, and to agree to the modification of water-right applications or contracts, or to consent to the abrogation of such applications or contracts, by Act Feb. 13, 1911, c. 49, post, § 4757. (1946)
§ 4704. (Act June 17, 1902, c. 1093, § 5.) Requirements to be performed by entryman; sale of water rights to landowners; payments, and forfeiture for nonpayment; disposition of receipts; commissions of registers and receivers.

The entryman upon lands to be irrigated by such works shall, in addition to compliance with the homestead laws, reclaim at least one-half of the total irrigable area of his entry for agricultural purposes, and before receiving patent for the lands covered by his entry shall pay to the Government the charges apportioned against such tract, as provided in section four. No right to the use of water for land in private ownership shall be sold for a tract exceeding one hundred and sixty acres to any one landowner, and no such sale shall be made to any landowner unless he be an actual bona fide resident on such land, or occupant thereof residing in the neighborhood of said land, and no such right shall permanently attach until all payments therefor are made. The annual installments shall be paid to the receiver of the local land office of the district in which the land is situated, and a failure to make any two payments when due shall render the entry subject to cancellation, with the forfeiture of all rights under this Act, as well as of any moneys already paid thereon. All moneys received from the above sources shall be paid into the reclamation fund. Registers and receivers shall be allowed the usual commissions on all moneys paid for lands entered under this Act. (32 Stat. 389.)

Provisions relating to water rights for towns established on town-sites in connection with irrigation projects were made by Act April 16, 1906, c. 1631, § 4, post, § 4718.

The time for the establishment of residence by homestead entrymen on lands within the Huntley irrigation project in the State of Montana was extended by Act March 16, 1908, c. 88, 35 Stat. 44.

§ 4705. (Act June 17, 1902, c. 1093, § 6.) Use of reclamation fund for reservoirs and irrigation works; transfer of management of irrigation works to landowners; title to and management of reservoirs, etc.

The Secretary of the Interior is hereby authorized and directed to use the reclamation fund for the operation and maintenance of all reservoirs and irrigation works constructed under the provisions of this Act: Provided, That when the payments required by this Act are made for the major portion of the lands irrigated from the waters of any of the works herein provided for, then the management and operation of such irrigation works shall pass to the owners of the lands irrigated thereby, to be maintained at their expense under such form of organization and under such rules and regulations as may be acceptable to the Secretary of the Interior: Provided, That the title to and the management and operation of the reservoirs and the works necessary for their protection and operation shall remain in the Government until otherwise provided by Congress. (32 Stat. 389.)

Payment from the reclamation fund of rent of office accommodations in Washington, D. C., for the Reclamation Service, was authorized by a provision of Act June 30, 1906, c. 3912, § 1, post, § 4743.

The title to and management of works constructed in co-operation with ir-
§ 4706. (Act June 17, 1902, c. 1093, § 7.) Acquisition of rights or property for purposes of act; condemnation proceedings.
Where in carrying out the provisions of this Act it becomes necessary to acquire any rights or property, the Secretary of the Interior is hereby authorized to acquire the same for the United States by purchase or by condemnation under judicial process, and to pay from the reclamation fund the sums which may be needed for that purpose, and it shall be the duty of the Attorney-General of the United States upon every application of the Secretary of the Interior, under this Act, to cause proceedings to be commenced for condemnation within thirty days from the receipt of the application at the Department of Justice. (32 Stat. 389.)

Provisions applicable generally to proceedings to acquire real estate for public uses by condemnation were made by Act Aug. 1, 1888, c. 728, post, §§ 6909, 6910.

Provisions for the sale of lands acquired under this or other acts for irrigation works, and which are not needed for such purposes, were contained in Act Feb. 2, 1911, c. 32, post, §§ 4746–4748.

§ 4707. (Act June 17, 1902, c. 1093, § 8.) Irrigation laws of States and Territories, and rights to waters of interstate streams, not affected by act; extent of right to use of water acquired under act.

Nothing in this Act shall be construed as affecting or intended to affect or to in any way interfere with the laws of any State or Territory relating to the control, appropriation, use, or distribution of water used in irrigation, or any vested right acquired thereunder, and the Secretary of the Interior, in carrying out the provisions of this Act, shall proceed in conformity with such laws, and nothing herein shall in any way affect any right of any State or of the Federal Government or of any landowner, appropriator, or user of water in, to, or from any interstate stream or the waters thereof: Provided, That the right to the use of water acquired under the provisions of this Act shall be appurtenant to the land irrigated, and beneficial use shall be the basis, the measure, and the limit of the right. (32 Stat. 390.)

§ 4708. (Act June 17, 1902, c. 1093, § 10.) Execution of provisions of act and regulations therefor.
The Secretary of the Interior is hereby authorized to perform any and all acts and to make such rules and regulations as may be necessary and proper for the purpose of carrying the provisions of this Act into full force and effect. (32 Stat. 390.)

The provisions of the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen (1948)
hundred and two, be, and the same are hereby, extended so as to include and apply to the State of Texas. (34 Stat. 259.)

This was an act entitled "An act to extend the irrigation act to the State of Texas."

Act June 17, 1902, c. 1063, mentioned in this act, is the Reclamation Act, ante, §§ 4700-4708. The States originally included therein are mentioned in section 1 thereof, ante, § 4700.

§ 4710. (Act June 25, 1910, c. 407, § 1.) Advances to reclamation fund from Treasury; aggregate amount; limitation to payment for work performed; reimbursement; examination and approval of projects; no portion of appropriation to be expended on new projects.

To enable the Secretary of the Interior to complete government reclamation projects heretofore begun, the Secretary of the Treasury is authorized, upon request of the Secretary of the Interior, to transfer from time to time to the credit of the reclamation fund created by the Act entitled "An act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two, such sum or sums, not exceeding in the aggregate twenty million dollars, as the Secretary of the Interior may deem necessary to complete the said reclamation projects, and such extensions thereof as he may deem proper and necessary to the successful and profitable operation and maintenance thereof or to protect water rights pertaining thereto claimed by the United States, provided the same shall be approved by the President of the United States; and such sum or sums as may be required to comply with the foregoing authority are hereby appropriated out of any money in the Treasury not otherwise appropriated. Provided, That the sums hereby authorized to be transferred to the reclamation fund shall be so transferred only as such sums shall be actually needed to meet payments for work performed under existing law: And provided further, That all sums so transferred shall be reimbursed to the Treasury from the reclamation fund, as hereinafter provided: And provided further, That no part of this appropriation shall be expended upon any existing project until it shall have been examined and reported upon by a board of engineer officers of the Army, designated by the President of the United States, and until it shall be approved by the President as feasible and practicable and worthy of such expenditure; nor shall any portion of this appropriation be expended upon any new project. (36 Stat. 835.)

This section and the four sections next following were part of an act entitled "An act to authorize advances to the 'Reclamation Fund,' and for the issue and disposal of certificates of indebtedness in reimbursement therefor, and for other purposes."

Section 6 of this act repealed section 9 of the Reclamation Act. See notes to said Act June 17, 1902, c. 1063, § 1, ante, § 4700.

The provisions creating the reclamation fund, contained in Act June 17, 1902, c. 1063, § 1, mentioned in this section, are set forth ante, § 4700.

(1949)
§ 4711. (Act June 25, 1910, c. 407, § 2.) Certificates of indebtedness to provide funds for advances; disposal; aggregate amount; exemption from taxation; appropriation for expenses.

For the purpose of providing the Treasury with funds for such advances to the reclamation fund, the Secretary of the Treasury is authorized to issue certificates of indebtedness of the United States in such form as he may prescribe and in denominations of fifty dollars, or multiples of that sum; said certificates to be redeemable at the option of the United States at any time after three years from the date of their issue and to be payable five years after such date, and to bear interest, payable semiannually, at not exceeding three per centum per annum; the principal and interest to be payable in gold coin of the United States. The certificates of indebtedness herein authorized may be disposed of by the Secretary of the Treasury at not less than par, under such rules and regulations as he may prescribe, giving all citizens of the United States an equal opportunity to subscribe therefor, but no commission shall be allowed and the aggregate issue of such certificates shall not exceed the amount of all advances made to said reclamation fund, and in no event shall the same exceed the sum of twenty million dollars. The certificates of indebtedness herein authorized shall be exempt from taxes or duties of the United States as well as from taxation in any form by or under state, municipal, or local authority; and a sum not exceeding one-tenth of one per centum of the amount of the certificates of indebtedness issued under this Act is hereby appropriated, out of any money in the Treasury not otherwise appropriated, to pay the expense of preparing, advertising, and issuing the same. (36 Stat. 835.)

§ 4712. (Act June 25, 1910, c. 407, § 3.) Repayment of advances from annual receipts of reclamation fund.

Beginning five years after the date of the first advance to the reclamation fund under this Act, fifty per centum of the annual receipts of the reclamation fund shall be paid into the general fund of the Treasury of the United States until payment so made shall equal the aggregate amount of advances made by the Treasury to said reclamation fund, together with interest paid on the certificates of indebtedness issued under this Act and any expense incident to preparing, advertising, and issuing the same. (36 Stat. 836.)

§ 4713. (Act June 25, 1910, c. 407, § 4.) Money advanced to reclamation fund to be devoted to completion of work on projects heretofore begun; no other projects to be begun until recommended by the Secretary of the Interior and approved by direct order of the President.

All money placed to the credit of the reclamation fund in pursuance of this Act shall be devoted exclusively to the completion of work on reclamation projects heretofore begun as hereinbefore provided, and the same shall be included with all other expenses in future estimates of construction, operation, or maintenance, and hereafter no irrigation project contemplated by said Act of June seventeenth, nineteen hundred and two, shall be begun unless and un-
Ch. 6b) THE PUBLIC LANDS § 4716

til the same shall have been recommended by the Secretary of the Interior and approved by the direct order of the President of the United States. (36 Stat. 836.)

§ 4714. (Act June 25, 1910, c. 407, § 5, as amended, Act Feb. 18, 1911, c. 111.) Entries of lands reserved for irrigation not to be made until unit of acreage and water charges and date when water can be applied are fixed; lands relinquished to be subject to homestead settlement and entry.

No entry shall be hereafter made and no entryman shall be permitted to go upon lands reserved for irrigation purposes until the Secretary of the Interior shall have established the unit of acreage and fixed the water charges and the date when the water can be applied and make public announcement of the same: Provided, That where entries made prior to June twenty-fifth, nineteen hundred and ten, have been or may be relinquished in whole or in part, the lands so relinquished shall be subject to settlement and entry under the homestead law as amended by an Act entitled "An Act appropriating the receipts from the sale and disposal of the public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two (Thirty-second Statutes at Large, page three hundred and eighty-eight). (36 Stat. 836. 36 Stat. 917.)

The amendment of this section by Act Feb. 18, 1911, c. 111, cited above, consisted in the addition of the proviso relating to lands, entries of which are relinquished, at the end of the section as set forth here.

Provisions for homestead entries of lands within reclamation projects, contained in the Reclamation Act of June 17, 1902, c. 1063, § 8, mentioned in this act, are set forth ante, § 4702.

§ 4715. (Act April 16, 1906, c. 1631, § 1.) Withdrawal from entry of town-sites under irrigation projects; survey and subdivision.

The Secretary of the Interior may withdraw from public entry any lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, not exceeding one hundred and sixty acres in each case, and survey and subdivide the same into town lots, with appropriate reservations for public purposes. (34 Stat. 116.)

This section and the four sections next following were an act entitled "An act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with the irrigation projects under the Reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes."

The Reclamation Act of June 17, 1902, c. 1063, mentioned in this section, is set forth ante, §§ 4700-4708.

Town-sites in excess of 160 acres may be withdrawn and disposed of under the provisions of this act, when advisable for the public interest, by Act June 27, 1906, c. 3559, § 4, post, § 4723.

§ 4716. (Act April 16, 1906, c. 1631, § 2.) Appraisement and sale of lots; expenses, and disposition of proceeds.

The lots so surveyed shall be appraised under the direction of the Secretary of the Interior and sold under his direction at not
§ 4716. THE PUBLIC LANDS

less than their appraised value at public auction to the highest bidders, from time to time, for cash, and the lots offered for sale and not disposed of may afterwards be sold at not less than the appraised value under such regulations as the Secretary of the Interior may prescribe. Reclamation funds may be used to defray the necessary expenses of appraisement and sale, and the proceeds of such sales shall be covered into the reclamation fund. (34 Stat. 116.)

Town-sites previously set apart or established under R. S. §§ 2380, 2381, post, §§ 4784, 4785, within or in the vicinity of any reclamation project, may be appraised and disposed of in accordance with the provisions of this act, by Act June 27, 1906, c. 3559, § 8, post, § 4722.

Provisions for reappraisement of unsold lots appraised under the provisions of this act and said Act June 27, 1906, c. 3559, and for the manner of payment for lots sold, were made by Act June 11, 1910, c. 284, post, §§ 4725, 4726.

§ 4717. (Act April 16, 1906, c. 1631, § 3.) Public reservations in town-sites.

The public reservations in such town sites shall be improved and maintained by the town authorities at the expense of the town; and upon the organization thereof as municipal corporations the said reservations shall be conveyed to such corporations by the Secretary of the Interior, subject to the condition that they shall be used forever for public purposes. (34 Stat. 116.)

§ 4718. (Act April 16, 1906, c. 1631, § 4.) Water rights for towns and cities; charges for water supply.

The Secretary of the Interior shall, in accordance with the provisions of the reclamation Act, provide for water rights in amount he may deem necessary for the towns established as herein provided, and may enter into contract with the proper authorities of such towns, and other towns or cities on or in the immediate vicinity of irrigation projects, which shall have a water right from the same source as that of said project for the delivery of such water supply to some convenient point, and for the payment into the reclamation fund of charges for the same to be paid by such towns or cities, which charges shall not be less nor upon terms more favorable than those fixed by the Secretary of the Interior for the irrigation project from which the water is taken. (34 Stat. 116.)


Whenever a development of power is necessary for the irrigation of lands, under any project undertaken under the said reclamation Act, or an opportunity is afforded for the development of power under any such project, the Secretary of the Interior is authorized to lease for a period not exceeding ten years, giving preference to municipal purposes, any surplus power or power privilege, and the moneys derived from such leases shall be covered into the reclamation fund and be placed to the credit of the project from which such power is derived: Provided, That no lease shall be made of such surplus power (1952)
or power privileges as will impair the efficiency of the irrigation project: Provided further, That the Secretary of the Interior is authorized, in his discretion, to make such a lease in connection with Rio Grande project in Texas and New Mexico for a longer period not exceeding fifty years, with the approval of the water users' association or associations under any such project, organized in conformity with the rules and regulations prescribed by the Secretary of the Interior in pursuance of section six of the reclamation Act approved June seventeenth, nineteen hundred and two. (34 Stat. 117. 36 Stat. 930.)

The amendment of this section by Act Feb. 24, 1911, c. 155, cited above, consisted chiefly in the addition of the further proviso at the end of the section as set forth here.

§ 4720. (Act June 27, 1906, c. 3559, § 1.) Subdivision of lands to be irrigated into lesser areas than forty acres; farm units; survey and entry of subdivisions.

Whenever, in the opinion of the Secretary of the Interior, by reason of market conditions and the special fitness of the soil and climate for the growth of fruit and garden produce, a lesser area than forty acres may be sufficient for the support of a family on lands to be irrigated under the provisions of the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, he may fix a lesser area than forty acres as the minimum entry and may establish farm units of not less than ten nor more than one hundred and sixty acres. That wherever it may be necessary, for the purpose of accurate description, to further subdivide lands to be irrigated under the provisions of said reclamation Act, the Secretary of the Interior may cause subdivision surveys to be made by the officers of the reclamation service, which subdivisions shall be rectangular in form, except in cases where irregular subdivisions may be necessary in order to provide for practicable and economical irrigation. Such subdivision surveys shall be noted upon the tract books in the General Land Office, and they shall be paid for from the reclamation fund: Provided, That an entryman may elect to enter under said reclamation Act a lesser area than the minimum limit in any State or Territory. (34 Stat. 519.)

This section and the four sections next following were an act entitled "An act providing for the subdivision of lands entered under the Reclamation Act, and for other purposes."

Lands to be irrigated were made subject to entry under the homestead laws in tracts of not less than 40 nor more than 160 acres by the provisions of the Reclamation Act of June 17, 1902, c. 1063, ante, §§ 4700–4708.

§ 4721. (Act June 27, 1906, c. 3559, § 2.) Other entry allowed, on relinquishment of former entry on lands acquired under Reclamation Act.

Wherever the Secretary of the Interior, in carrying out the provisions of the reclamation Act, shall acquire by relinquishment lands covered by a bona fide unperfected entry under the land laws of the United States, the entryman upon such tract may make an-
other and additional entry, as though the entry thus relinquished had not been made. (34 Stat. 519.)

The acquisition of rights or property for the purposes of the Reclamation Act was authorized by said Act June 17, 1902, c. 1003, § 7, ante, § 4706.

§ 4722. (Act June 27, 1906, c. 3559, § 3.) Disposal of town-sites previously set apart, within or in vicinity of reclamation project; expenses, and disposition of proceeds.

Any town site heretofore set apart or established by proclamation of the President, under the provisions of sections twenty-three hundred and eighty and twenty-three hundred and eighty-one of the Revised Statutes of the United States, within or in the vicinity of any reclamation project, may be appraised and disposed of in accordance with the provisions of the Act of Congress approved April sixteenth, nineteen hundred and six, entitled "An Act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes;" and all necessary expenses incurred in the appraisal and sale of lands embraced within any such town site shall be paid from the reclamation fund, and the proceeds of the sales of such lands shall be covered into the reclamation fund. (34 Stat. 519.)

Rev. St. §§ 2380, 2381, mentioned in this section, providing for the reservation of town-sites, are set forth post, §§ 4784, 4785.

Act April 16, 1906, c. 1631, also mentioned in this section, and made applicable by it to town-sites previously set apart, is set forth ante, §§ 4715-4719.

Provisions for reappraisal of unsold lots appraised under the provisions of Act April 12, 1900, c. 1631, ante, §§ 4715-4719, and of this act, and for the manner of payment for lots sold, were made by Act June 11, 1910, c. 284, post, §§ 4725, 4729.

§ 4723. (Act June 27, 1906, c. 3559, § 4.) Settlers previously allowed to establish themselves on certain town-sites to have right to purchase lots built upon; limitation on size of town-sites not to apply; withdrawal and disposal of larger town-sites authorized; expenses, and disposition of proceeds.

In the town sites of Heyburn and Rupert, in Idaho, created and surveyed by the Government, on which town sites settlers have been allowed to establish themselves, and had actually established themselves prior to March fifth, nineteen hundred and six, in permanent buildings not easily moved, the said settlers shall be given the right to purchase the lots so built upon at an appraised valuation for cash, such appraisement to be made under rules to be prescribed by the Secretary of the Interior. Providing that the limitation on the size of townsites contained in the Act of April sixteenth, nineteen hundred and six, entitled "An Act providing for the withdrawal from public entry of lands needed for townsites purposes in connection with irrigation projects under the reclamation Act of June seventeenth, nineteen hundred and two, and for other purposes," shall not apply to the townsites named in this section; and whenever, in the opinion of the Secretary of the Interior, it shall be advisable for the public interest, he may withdraw and dispose of townsites in excess of one hundred and sixty acres under the provisions of the aforesaid Act,
THE PUBLIC LANDS  § 4724

approved April sixteenth, nineteen hundred and six, and reclamation funds shall be available for the payment of all expenses incurred in executing the provisions of this Act, and the aforesaid Act of April sixteenth, nineteen hundred and six, and the proceeds of all sales of townsites shall be covered into the reclamation fund. (34 Stat. 520.)

Act April 16, 1906, c. 1631, mentioned in this section, section 1 of which provided for the withdrawal from entry of lands needed for townsite purposes in connection with irrigation projects, not exceeding 160 acres in each case, is set forth ante, §§ 4715–4719.

§ 4724. (Act June 27, 1906, c. 3559, § 5.) Desert-land entries within exterior limits of land withdrawal or irrigation project; time allowed to make improvements or reclaim land; rights of entryman on abandonment or completion of irrigation project.

Where any bona fide desert-land entry has been or may be embraced within the exterior limits of any land withdrawal or irrigation project under the Act entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands," approved June seventeenth, nineteen hundred and two, and the desert-land entryman has been or may be directly or indirectly hindered, delayed, or prevented from making improvements or from reclaiming the land embraced in any such entry by reason of such land withdrawal or irrigation project, the time during which the desert-land entryman has been or may be so hindered, delayed, or prevented from complying with the desert-land law shall not be computed in determining the time within which such entryman has been or may be required to make improvements or reclaim the land embraced within any such desert-land entry: Provided, That if after investigation the irrigation project has been or may be abandoned by the Government, time for compliance with the desert-land law by any such entryman shall begin to run from the date of notice of such abandonment of the project and the restoration to the public domain of the lands withdrawn in connection therewith, and credit shall be allowed for all expenditures and improvements heretofore made on any such desert-land entry of which proof has been filed; but if the reclamation project is carried to completion so as to make available a water supply for the land embraced in any such desert-land entry, the entryman shall thereupon comply with all the provisions of the aforesaid Act of June seventeenth, nineteen hundred and two, and shall relinquish all land embraced within his desert-land entry in excess of one hundred and sixty acres, and as to such one hundred and sixty acres retained, he shall be entitled to make final proof and obtain patent upon compliance with the terms of payment prescribed in said Act of June seventeenth, nineteen hundred and two, and not otherwise. But nothing herein contained shall be held to require a desert-land entryman who owns a water right and reclaims the land embraced in his entry to accept the conditions of said reclamation Act. (34 Stat. 520.)

The Reclamation Act of June 17, 1902, c. 1003, mentioned in this section, is set forth ante, §§ 4700–4708.

Provisions relating to the entry of desert lands for reclamation were made (1955)
by Act March 3, 1877, c. 107, and subsequent statutes set forth or referred to ante, §§ 4674-4684.

Assignments of desert-land entries within reclamation projects were authorized by Act July 24, 1912, c. 251, post, § 4733.

Provisions for the issuance of patents to desert-land entrymen whose entries were embraced within a reclamation project were made by Act Aug. 20, 1912, c. 408, post, § 4734.

§ 4725. (Act June 11, 1910, c. 284, § 1.) Reappraisement of unsold lots in town sites within reclamation projects.

The Secretary of the Interior is hereby authorized, whenever he may deem it necessary, to reappraise all unsold lots within town sites on projects under the reclamation Act heretofore or hereafter appraised under the provisions of the Act approved April sixteenth, nineteen hundred and six, entitled "An Act providing for the withdrawal from public entry of lands needed for town-site purposes in connection with irrigation projects under the reclamation act of June seventeenth, nineteen hundred and two, and for other purposes," and the Act approved June twenty-seventh, nineteen hundred and six, entitled "An Act providing for the subdivision of lands entered under the reclamation Act, and for other purposes;" and thereafter to proceed with the sale of such town lots in accordance with said Acts. (36 Stat. 465.)

This section and the section next following were an act entitled "An act providing for the reappraisement of unsold lots in town sites on reclamation projects, and for other purposes."

Act April 16, 1906, c. 1631, and Act June 27, 1906, c. 3559, mentioned in this section, are set forth ante, §§ 4715-4719.

§ 4726. (Act June 11, 1910, c. 284, § 2.) Manner of payment for town lots sold.

In the sale of town lots under the provisions of the said Acts of April sixteenth and June twenty-seventh, nineteen hundred and six, the Secretary of the Interior may, in his discretion, require payment for such town lots in full at time of sale or in annual installments, not exceeding five, with interest at the rate of six per centum per annum on deferred payments. (36 Stat. 466.)

§ 4727. (Act June 23, 1910, c. 357.) Assignment of completed homestead entries within reclamation projects; patents to assignees.

From and after the filing with the Commissioner of the General Land Office of satisfactory proof of residence, improvement, and cultivation for the five years required by law, persons who have, or shall make, homestead entries within reclamation projects under the provisions of the Act of June seventeenth, nineteen hundred and two, may assign such entries, or any part thereof, to other persons, and such assignees, upon submitting proof of the reclamation of the lands and upon payment of the charges apportioned against the same as provided in the said Act of June seventeenth, nineteen hundred and two, may receive from the United States a patent for the lands: Provided, That all assignments made under the provisions of this act (1956)
shall be subject to the limitations, charges, terms, and conditions of the reclamation Act. (36 Stat. 592.)

This was an act entitled "An act providing that entrymes for homesteads within reclamation projects may assign their entries upon satisfactory proof of residence, improvement, and cultivation for five years, the same as though said entry had been made under the original homestead act."

Provisions for homestead entries of lands within reclamation projects, of the Reclamation Act of June 17, 1902, c. 1003, § 3, are set forth ante, § 4702.

Provisions for the issuance of patents to homestead entrymes under the Reclamation Act upon their complying with the law applicable to such lands as to residence, reclamation and cultivation, were made by Act Aug. 9, 1912, c. 278, post, §§ 4728–4732.

§ 4728. (Act Aug. 9, 1912, c. 278, § 1.) Issuance of patents to homestead entrymes within reclamation projects; issuance of final water-right certificates; conditions prerequisite to issuance.

Any homestead entryme under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, including entrymes on ceded Indian lands, may, at any time after having complied with the provisions of law applicable to such lands as to residence, reclamation and cultivation, submit proof of such residence, reclamation and cultivation, which proof, if found regular and satisfactory, shall entitle the entryme to a patent, and all purchasers of water-right certificates on reclamation projects shall be entitled to a final water-right certificate upon proof of the cultivation and reclamation of the land to which the certificate applies, to the extent required by the reclamation Act for homestead entrymes: Provided, That no such patent or certificate shall issue until all sums due the United States on account of such land or water right at the time of issuance of patent or certificate have been paid. (37 Stat. 265.)

This section and the four sections next following were an act entitled "An act providing for patents on reclamation entries, and for other purposes."

Provisions for homestead entries upon lands within reclamation projects were made by the Reclamation Act of June 17, 1902, c. 1003, §§ 3, 5, ante, §§ 4702, 4704.

Provisions for the assignment of completed homestead entries within reclamation projects were made by Act June 23, 1910, c. 357, ante, § 4727.

§ 4729. (Act Aug. 9, 1912, c. 278, § 2.) Patents and water-right certificates to reserve to the United States, a lien for sums due or to become due; forfeiture upon default in payment; right of redemption; sale after failure to redeem; bid of United States.

Every patent and water-right certificate issued under this Act shall expressly reserve to the United States a prior lien on the land patented or for which water right is certified, together with all water rights appurtenant or belonging thereto, superior to all other liens, claims or demands whatsoever for the payment of all sums due or to become due to the United States or its successors in control of the irrigation project in connection with such lands and water rights.

Upon default of payment of any amount so due title to the land shall pass to the United States free of all encumbrance, subject to the right of the defaulting debtor or any mortgagee, lien holder, judgment
debtor, or subsequent purchaser to redeem the land within one year after the notice of such default shall have been given by payment of all moneys due, with eight per centum interest and cost. And the United States, at its option, acting through the Secretary of the Interior, may cause land to be sold at any time after such failure to redeem, and from the proceeds of the sale there shall be paid into the reclamation fund all moneys due, with interest as herein provided, and costs. The balance of the proceeds, if any, shall be the property of the defaulting debtor or his assignee: Provided, That in case of sale after failure to redeem under this section the United States shall be authorized to bid in such land at not more than the amount in default, including interest and costs. (37 Stat. 266.)

§ 4730. (Act Aug. 9, 1912, c. 278, § 3.) Certificate of final payment; limitation of amount of land acquired or held by one person before payment in full of all charges; excess acquired by descent may be held two years; forfeiture of excess holdings.

Upon full and final payment being made of all amounts due on account of the building and betterment charges to the United States or its successors in control of the project, the United States or its successors, as the case may be, shall issue upon request a certificate certifying that payment of the building and betterment charges in full has been made and that the lien upon the land has been so far satisfied and is no longer of any force or effect except the lien for annual charges for operation and maintenance: Provided, That no person shall at any one time or in any manner, except as hereinafter otherwise provided, acquire, own, or hold irrigable land for which entry or water right application shall have been made under the said reclamation Act of June seventeenth, nineteen hundred and two, and Acts supplementary thereto and amendatory thereof, before final payment in full of all instalments of building and betterment charges shall have been made on account of such land in excess of one farm unit as fixed by the Secretary of the Interior as the limit of area per entry of public land or per single ownership of private land for which a water right may be purchased respectively, nor in any case in excess of one hundred and sixty acres, nor shall water be furnished under said Acts nor a water right sold or recognized for such excess; but any such excess land acquired at any time in good faith by descent, by will, or by foreclosure of any lien may be held for two years and no longer after its acquisition; and every excess holding prohibited as aforesaid shall be forfeited to the United States by proceedings instituted by the Attorney General for that purpose in any court of competent jurisdiction; and this proviso shall be recited in every patent and water-right certificate issued by the United States under the provisions of this Act. (37 Stat. 266.)

The Secretary of the Interior was authorized to fix the farm units under the reclamation projects at not less than 40 nor more than 100 acres by the Reclamation Act of June 17, 1902, c. 1055, ante, §§ 4700–4708, and was authorized to fix a lesser area of not less than 5 acres of fruit and garden land as the unit by Act June 27, 1906, c. 3559, § 1, ante, § 4720.

(1958)
§ 4731. (Act Aug. 9, 1912, c. 278, § 4.) Appointment of agents to receive payments due on reclamation entries or water rights; copies of records of entries admissible as evidence.

The Secretary of the Interior is hereby authorized to designate such bonded fiscal agents or officers of the Reclamation Service as he may deem advisable on each reclamation project, to whom shall be paid all sums due on reclamation entries or water rights, and the officials so designated shall keep a record for the information of the public of the sums paid and the amount due at any time on account of any entry made or water right purchased under the reclamation Act; and the Secretary of the Interior shall make provision for furnishing copies of duly authenticated records of entries upon payment of reasonable fees, which copies shall be admissible in evidence, as are copies authenticated under section eight hundred and eighty-eight of the Revised Statutes. (37 Stat. 267.)

R. S. § 888, referred to in this section, is set forth ante, § 1501.

§ 4732. (Act Aug. 9, 1912, c. 278, § 5.) Jurisdiction of district courts to enforce provisions of this act.

Jurisdiction of suits by the United States for the enforcement of the provisions of this Act is hereby conferred on the United States district courts of the districts in which the lands are situated. (37 Stat. 267.)

See note to section 1 of this act, ante, § 4728.

§ 4733. (Act July 24, 1912, c. 251.) Assignment of desert-land entries within reclamation projects.

A desert-land entry within the exterior limits of a Government reclamation project may be assigned in whole or in part under the Act of March twenty-eighth, nineteen hundred and eight (Thirty-fifth Statutes at Large, page fifty-two), and the benefits and limitations of the Act of June twenty-seventh, nineteen hundred and six (Thirty-fourth Statutes at Large, page five hundred and twenty), shall apply to such desert-land entryman and his assignees: Provided, That all such assignments shall conform to and be in accordance with farm units to be established by the Secretary of the Interior upon the application of the desert-land entryman. All such assignments heretofore made in good faith shall be recognized under this Act. (37 Stat. 200.)

This was an act entitled "An act relating to partial assignments of desert-land entries within reclamation projects made since March twenty-eighth, nineteen hundred and eight." Act March 28, 1908, c. 112, mentioned in this section, is set forth ante, §§ 4674–4680.

Act June 27, 1906, c. 3559, also mentioned in this section, is set forth ante, §§ 4720–4724.

§ 4734. (Act Aug. 26, 1912, c. 408.) Patents to desert-land entrymen within reclamation projects; proof required.

Any desert-land entryman whose desert-land entry has been embraced within the exterior limits of any land withdrawal or irrigation project under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, and who may have obtained a water
§ 4734 THE PUBLIC LANDS

supply for the land embraced in any such desert-land entry from the reclamation project by the purchase of a water-right certificate, may at any time after having complied with the provisions of the law applicable to such lands and upon proof of the cultivation and reclamation of the land to the extent required by the reclamation Act for homestead entrymen, submit proof of such compliance, which proof, if found regular and satisfactory, shall entitle the entryman to a patent and a final water-right certificate under the same terms and conditions as required of homestead entrymen under the Act entitled "An Act providing for patents on reclamation entries, and for other purposes, approved August ninth, nineteen hundred and twelve." (37 Stat. 610.)

This was a provision of the deficiency appropriation act for the fiscal year 1912, cited above. 
Act Aug. 9, 1912, c. 278, referred to in this section, is set forth ante, §§ 4728–4732.

Previous provisions relating to desert-land entries within reclamation projects were made by Act June 17, 1906, c. 3559, ante, §§ 4720–4724, and Act July 24, 1912, c. 251, ante, § 4733.

§ 4735. (Act June 25, 1910, c. 432.) Leaves of absence to homestead entrymen on lands proposed to be irrigated, until water is turned on.

All qualified entrymen who have heretofore made bona fide entry upon lands proposed to be irrigated under the provisions of the Act of June seventeenth, nineteen hundred and two, known as the national irrigation Act, may, upon application and a showing that they have made substantial improvements, and that water is not available for the irrigation of their said lands, within the discretion of the Secretary of the Interior, obtain leave of absence from their entries, until water for irrigation is turned into the main irrigation canals from which the land is to be irrigated: Provided, That the period of actual absence under this Act shall not be deducted from the full time of residence required by law. (36 Stat. 864.)

This was an act entitled "An act granting leaves of absence to homesteaders on lands to be irrigated under the provisions of the act of June seventeenth, nineteen hundred and two."

Provisions for homestead entries of lands within reclamation projects, made by the Reclamation Act of June 17, 1902, c. 1063, § 3, mentioned in this act, are set forth ante, § 4702.

No homestead entry made prior to June 25, 1910, within a reclamation project was to be subject to contest for failure of the entryman to maintain a residence or make improvements prior to the time when water was available for the irrigation of the lands, by Act April 30, 1912, c. 100, post, § 4736.

§ 4736. (Act April 30, 1912, c. 100.) Homestead entries made prior to June 25, 1910, within reclamation projects not subject to contest for failure to maintain residence or to improve before water is available: re-establishment of residence.

No qualified entryman who prior to June twenty-fifth, nineteen hundred and ten, made bona fide entry upon lands proposed to be irrigated under the provisions of the Act of June seventeenth, nineteen hundred and two, the national reclamation law, and who established residence in good faith upon the lands entered by him, shall be subject (1960)
to contest for failure to maintain residence or make improvements upon his land prior to the time when water is available for the irrigation of the lands embraced in his entry, but all such entrymen shall, within ninety days after the issuance of the public notice required by section four of the reclamation Act, fixing the date when water will be available for irrigation, file in the local land office a water-right application for the irrigable lands embraced in his entry, in conformity with the public notice and approved farm-unit plat for the township in which his entry lies, and shall also file an affidavit that he has reestablished his residence on the land with the intention of maintaining the same for a period sufficient to enable him to make final proof: Provided, That no such entryman shall be entitled to have counted as part of the required period of residence any period of time during which he was not actually upon the said land prior to the date of the notice aforesaid, and no application for the entry of said lands shall be received until after the expiration of the ninety days after the issuance of notice within which the entryman is hereby required to reestablish his residence and apply for water right. (37 Stat. 105.)

This was an act entitled, "An act for the relief of homestead entrymen under the reclamation projects in the United States."

The Reclamation Act of June 17, 1902, c. 1098, mentioned in this section is set forth ante, §§ 4700–4708.

Provisions for leaves of absence to homestead entrymen on lands within reclamation projects until water is available, were made by Act June 25, 1910, c. 432, ante, § 4735.

§ 4737. (Act Feb. 13, 1911, c. 49.) Withdrawal of notices of lands irrigable under reclamation act, limit of acreage, charges, etc.; modification or abrogation of water-right applications or contracts.

The Secretary of the Interior may, in his discretion, withdraw any public notice heretofore issued under section four of the reclamation Act of June seventeenth, nineteen hundred and two, and he may agree to such modification of water-right applications heretofore duly filed or contracts with water users' associations and others, entered into prior to the passage of this Act, as he may deem advisable, or he may consent to the abrogation of such water-right applications and contracts, and proceed in all respects as if no such notice had been given. (36 Stat. 902.)

This was an act entitled "An act to authorize the Secretary of the Interior to withdraw public notices issued under section four of the Reclamation Act, and for other purposes."

The Reclamation Act of June 17, 1902, c. 1098, § 4, mentioned in this act, is set forth, ante, § 4703.

§ 4738. (Act Feb. 21, 1911, c. 141, § 1.) Contracts for excess storage or carrying capacity provided under reclamation law, with irrigation systems under Carey Act, for distribution of water to individual users; restriction of use of water; charges.

Whenever in carrying out the provisions of the reclamation law, storage or carrying capacity has been or may be provided in excess of the requirements of the lands to be irrigated under any
§ 4738. THE PUBLIC LANDS

project, the Secretary of the Interior, preserving a first right to
lands and entrymen under the project, is hereby authorized, upon
such terms as he may determine to be just and equitable, to con-
tract for the impounding, storage, and carriage of water to an ex-
tent not exceeding such excess capacity with irrigation systems op-
erating under the Act of August eighteenth, eighteen hundred and
ninety-four, known as the Carey Act, and individuals, corporations,
associations, and irrigation districts organized for or engaged in fur-
nishing or in distributing water for irrigation. Water so impounded,
stored, or carried under any such contract shall be for the purpose
of distribution to individual water users by the party with whom the
contract is made: Provided, however, That water so impounded,
stored, or carried shall not be used otherwise than as prescribed by
law as to lands held in private ownership within Government recla-
mation projects. In fixing the charges under any such contract for
impounding, storing, or carrying water for any irrigation system, cor-
poration, association, district, or individual, as herein provided, the
Secretary shall take into consideration the cost of construction and
maintenance of the reservoir by which such water is to be impounded
or stored and the canal by which it is to be carried, and such charges
shall be just and equitable as to water users under the Government
project. No irrigation system, district, association, corporation, or
individual so contracting shall make any charge for the storage, car-
riage, or delivery of such water in excess of the charge paid to the
United States except to such extent as may be reasonably necessary
to cover cost of carriage and delivery of such water through their
works. (36 Stat. 925.)

This section and the two sections next following were an act entitled "An act
to authorize the government to contract for the impounding, storing, and car-
riage of water, and to co-operate in the construction and use of reservoirs and
canals under reclamation projects, and for other purposes."
Act Aug. 18, 1894, c. 301, § 4, the Carey Act mentioned in this section, is
set forth, ante, § 4085.

§ 4739. (Act Feb. 21, 1911, c. 141, § 2.) Co-operation with irrigation
districts, etc., or water users, for construction or use of
reservoirs, canals, etc.; title to and management of works; limita-
tion of water to be furnished; right to control waters of
streams in States not affected.

In carrying out the provisions of said reclamation Act and Acts
amendatory thereof or supplementary thereto, the Secretary of
the Interior is authorized, upon such terms as may be agreed upon,
to cooperate with irrigation districts, water users associations, cor-
porations, entrymen or water users for the construction or use of such
reservoirs, canals, or ditches as may be advantageously used by the
Government and irrigation districts, water users associations, corpora-
tions, entrymen or water users for impounding, delivering and car-
rying water for irrigation purposes: Provided, That the title to and
management of the works so constructed shall be subject to the pro-
visions of section six of said Act: Provided further, That water shall
not be furnished from any such reservoir or delivered through any

(1962)
such canal or ditch to any one landowner in excess of an amount sufficient to irrigate one hundred and sixty acres: Provided, That nothing contained in this Act shall be held or construed as enlarging or attempting to enlarge the right of the United States, under existing law, to control the waters of any stream in any State. (36 Stat. 926.)

The Reclamation Act of June 17, 1902, c. 1063, and acts amendatory thereof or supplementary thereto, mentioned in this section, are set forth ante, §§ 4700-4737.

§ 4740. (Act Feb. 21, 1911, c. 141, § 3.) Proceeds of contracts to be covered into reclamation fund.

The moneys received in pursuance of such contracts shall be covered into the reclamation fund and be available for use under the terms of the reclamation Act and the Acts amendatory thereof or supplementary thereto. (36 Stat. 926.)

§ 4741. (Act Feb. 8, 1905, c. 552.) Use of earth, stone, and timber from public lands and forest reserves for construction of irrigation works.

In carrying out the provisions of the national irrigation law, approved June seventeenth, nineteen hundred and two, and in constructing works thereunder, the Secretary of the Interior is hereby authorized to use and to permit the use by those engaged in the construction of works under said law, under rules and regulations to be prescribed by him, such earth, stone, and timber from the public lands of the United States as may be required in the construction of such works, and the Secretary of Agriculture is hereby authorized to permit the use of earth, stone, and timber from the forest reserves of the United States for the same purpose, under rules and regulations to be prescribed by him. (33 Stat. 706.)

This was an act entitled "An act authorising the use of earth, stone and timber on the public lands and forest reserves of the United States in the construction of works under the national irrigation law."

The Reclamation Act of June 17, 1902, c. 1063, mentioned in this section, is set forth ante, §§ 4700-4708.

§ 4742. (Act March 3, 1905, c. 1459.) Disposition of proceeds of sales of material used and other property, and of moneys refundd in connection with operations.

There shall be covered into the reclamation fund established under the Act of June seventeenth, nineteen hundred and two, known as the reclamation Act, the proceeds of the sales of material utilized for temporary work and structures in connection with the operations under the said Act, as well as of the sales of all other condemned property which had been purchased under the provisions thereof, and also any moneys refunded in connection with the operations under said reclamation Act. (33 Stat. 1032.)

This was an act entitled "An act to provide for the covering into the reclamation fund certain proceeds of sales of property purchased by the reclamation fund."

The Reclamation Act of June 17, 1902, c. 1063, mentioned in this section, is set forth ante, §§ 4700-4708.

(1963)
§ 4743. (Act June 30, 1906, c. 3912, § 1.) Expenditure from reclamation fund for rent of offices for Reclamation Service.

The Secretary of the Interior may authorize such expenditure as may be necessary, not exceeding a total of eight thousand dollars annually, for rent of office accommodations in the city of Washington, District of Columbia, for the Reclamation Service, payable from the Reclamation fund, established by Act approved June seventeenth, nineteen hundred and two, entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories to the construction of irrigation works for the reclamation of arid lands." (34 Stat. 663.)

This was a provision of the deficiency appropriation act for the fiscal year 1906, cited above.

The Reclamation Act of June 17, 1902, c. 1003, mentioned in this provision, which established and provided for the disposition of the reclamation fund, is set forth ante, §§ 4700-4708.

§ 4744. (Act May 27, 1908, c. 200, § 1.) Purchase of books, etc., needed in surveys and examinations for irrigation works.

The Secretary of the Interior may authorize the purchase of such law books, books of reference, periodicals, engineering and statistical publications as are needed in carrying out the surveys and examinations authorized by the Act of June seventeenth, nineteen hundred and two, entitled "An Act appropriating the receipts from the sale and disposal of public lands in certain States and Territories for the construction of irrigation works for the reclamation of arid lands." (35 Stat. 350.)

This was a provision of the sundry civil appropriation act for the fiscal year 1909, cited above.

The Reclamation Act of June 17, 1902, c. 1003, mentioned in this section, is set forth ante, §§ 4700-4708.

§ 4745. (Act May 27, 1908, c. 200, § 1.) Assignments of pay by employees of Reclamation Service.

The Secretary of the Interior is hereby authorized to permit the employees of the Reclamation Service, while employed in the field, to make assignments of their pay under such regulations as he may prescribe. (35 Stat. 350.)

This was a further provision of the sundry civil appropriation act for the fiscal year 1909, cited above.

§ 4746. (Act Feb. 2, 1911, c. 32, § 1.) Sale of lands acquired under reclamation acts; appraisement; notice of sale.

Whenever in the opinion of the Secretary of the Interior any lands which have been acquired under the provisions of the Act of June seventeenth, nineteen hundred and two (Thirty-second Statutes, page three hundred and eighty-eight), commonly called the "reclamation Act," or under the provisions of any Act amendatory thereof or supplementary thereto, for any irrigation works contemplated by said reclamation Act are not needed for the purposes for which they were acquired, said Secretary of the Interior may cause said lands, together with the improvements thereon, to be appraised by three disinterested persons, to be appointed by him, and thereafter to sell the same for not less than the appraised value at public auction to the (1964)
highest bidder, after giving public notice of the time and place of sale by posting upon the land and by publication for not less than thirty days in a newspaper of general circulation in the vicinity of the land. (36 Stat. 895.)

This section and the two sections next following were an act entitled "An act to provide for the sale of lands acquired under the provisions of the Reclamation Act and which are not needed for the purposes of that act."

The Reclamation Act of June 17, 1902, c. 1093, and other acts amendatory thereof or supplementary thereto, mentioned in this section, are set forth ante, §§ 4700-4740.

§ 4747. (Act Feb. 11, 1911, c. 32, § 2.) Conveyance to purchaser; limitation of amount.

Upon payment of the purchase price, the Secretary of the Interior is authorized by appropriate deed to convey all the right, title, and interest of the United States of, in, and to said lands to the purchaser at said sale, subject, however, to such reservations, limitations, or conditions as said Secretary may deem proper: Provided, That not over one hundred and sixty acres shall be sold to any one person. (36 Stat. 895.)

§ 4748. (Act Feb. 2, 1911, c. 32, § 3.) Proceeds of sale to be covered into reclamation fund and credited to project for which land was acquired.

The moneys derived from the sale of such lands shall be covered into the reclamation fund and be placed to the credit of the project for which said lands had been acquired. (36 Stat. 895.)

§ 4749. (Act Feb. 9, 1905, c. 567.) Change of levels of lakes, etc., in Oregon and California, in carrying out irrigation projects; disposition of lands acquired.

The Secretary of the Interior is hereby authorized in carrying out any irrigation project that may be undertaken by him under the terms and conditions of the national reclamation Act and which may involve the changing of the levels of Lower or Little Klamath Lake, Tule or Rhett Lake, and Goose Lake, or any river or other body of water connected therewith, in the States of Oregon and California, to raise or lower the level of said lakes as may be necessary and to dispose of any lands which may come into the possession of the United States as a result thereof by cession of any State or otherwise under the terms and conditions of the national reclamation Act. (33 Stat. 714.)

This was an act entitled "An act authorizing the changing of the levels of certain lakes and the disposal of certain lands under the terms of the national reclamation act."

The National Reclamation Act, mentioned in this section, Act June 17, 1902, c. 1093, is set forth ante, §§ 4700-4708.

§ 4750. (Act March 3, 1905, c. 1476.) Construction of dams in or across Yellowstone River in Montana in carrying out irrigation projects.

Where, in carrying out projects under the provisions of the national reclamation Act, it shall be necessary to construct dams in or across the Yellowstone River in the State of Montana, the Secretary (1965)
of the Interior is hereby authorized to construct and use and operate the same in the manner and for the purposes contemplated by said reclamation Act. (33 Stat. 1045.)

This was an act entitled “An act to authorize the Secretary of the Interior to construct dams across the Yellowstone River in Montana in connection with irrigation works.”

The National Reclamation Act, mentioned in this section, Act June 17, 1902, c. 1093, is set forth ante, §§ 4700-4708.

CHAPTER SEVEN
Sale and Disposal of the Public Lands

§ 4751. (R. S. § 2353.) Public sale of lands in half quarter-sections.

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

Act April 24, 1829, c. 51, § 1, 3 Stat. 566.

No public lands were to be sold at public sale, except certain reservations and tracts and lands the sale of which was authorized by special acts, by Act March 3, 1891, c. 561, § 9, post, § 4753.

Provisions for the sale of abandoned and useless military reservations were (1866)
made by Act July 5, 1884, c. 214, and subsequent acts, post, under Chapter 10H of this Title, "Abandoned Military Reservations."

§ 4752. (Act Jan. 12, 1877, c. 18, § 1.) Sale of saline lands.
Whenever it shall be made appear to the register and the receiver of any land office of the United States that any lands within their district are saline in character, it shall be the duty of said register and said receiver, under the regulations of the General Land Office, to take testimony in reference to such lands to ascertain their true character, and to report the same to the General Land office; and if, upon such testimony, the Commissioner of the General Land office shall find that such lands are saline and incapable of being purchased under any of the laws of the United States relative to the public domain, then, and in such case, such lands shall be offered for sale by public auction at the local land office of the district in which the same shall be situated, under such regulations as shall be prescribed by the Commissioner of the General Land office, and sold to the highest bidder for cash, at a price not less than one dollar and twenty-five cents per acre; and in case said lands fail to sell when so offered, then the same shall be subject to private sale, at such land office, for cash, at a price not less than one dollar and twenty-five cents per acre, in the same manner as other lands of the United States are sold, Provided, That the foregoing enactments shall not apply to any State or Territory which has not had a grant of salines by act of Congress, nor to any State which may have had such a grant, until either the grant has been fully satisfied, or the right of selection thereunder has expired by efflux of time. But nothing in this act shall authorize the sale or conveyance of any title other than such as the United States has, and the patents issued shall be in the form of a release and quit-claim of all title of the United States in such lands. (19 Stat. 221.)

This was the first section of an act entitled "An act providing for the sale of saline land."

Section 2 of the act related to the publication of proclamations relating to sales of public lands, and is set forth post, § 4758.

The provisions of this section are almost entirely superseded, as to the public sales, thereby authorized, by Act March 3, 1891, c. 661, § 9, post, § 4753, forbidding public sale of public lands, with certain exceptions, and as to private sales by Act March 2, 1889, c. 351, § 1, post, § 4760, forbidding private entry of public lands, except those in the State of Missouri, by Act Jan. 31, 1901, c. 186, ante, § 4941, making saline lands subject to location and purchase under the laws relating to placer-mining claims, and by the grants to certain States, on their admission to the Union, of the saline lands within each of them, by the various acts for their admission, respectively, referred to in subsequent paragraphs of this note.

On the admission to the Union of the State of Colorado, salt springs within the State, with adjoining land, were granted to that State by the act of admission, Act March 3, 1875, c. 139, § 11, 15 Stat. 476.

§ 4752  THE PUBLIC LANDS


On the admission to the Union of the State of Utah, all saline lands in the State were included in the grant for the use of the State university, by Act July 10, 1894, c. 138, § 8, 28 Stat. 109.

Saline Islands in New Mexico were reserved from entry, location, etc., until Congress should provide for their disposition, by Act June 20, 1910, c. 310, § 18, 36 Stat. 568.

§ 4753. (Act March 3, 1891, c. 561, § 9.) Public sale of lands forbidden; exceptions.

Hereafter no public lands of the United States, except abandoned military or other reservations isolated and disconnected fractional tracts authorized to be sold by section twenty-four hundred and fifty-five of the Revised Statutes, and mineral and other lands the sale of which at public auction has been authorized by acts of Congress of a special nature having local application, shall be sold at public sale. (26 Stat. 1099.)

R. S. § 2455, mentioned in this section, is set forth post, § 5110.

§ 4754. (R. S. § 2354.) Private sales, in what bodies.

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

Act April 5, 1832, c. 65, 4 Stat. 503.

No public lands of the United States, except those in Missouri, were to be subject to private entry, by Act March 2, 1889, c. 381, § 1, post, § 4760.

§ 4755. (R. S. § 2355.) Private sales, proceedings in.

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

Act Feb. 24, 1810, c. 11, § 1, 2 Stat. 556.

See note to R. S. § 2357, post, § 4757.

§ 4756. (R. S. § 2356.) No credit on sales of public lands.

Credit shall not be allowed for the purchase-money on the sale of any of the public lands, but every purchaser of land sold at public sale shall, on the day of purchase, make complete payment therefor; and the purchaser at private sale shall produce to the register of the land-office a receipt from the Treasurer of the United States, or from the receiver of public moneys of the district, for the amount of the purchase-money on any tract, before he enters the same at the land-office; and if any person, being the highest bidder at public sale for a tract of land, fails to make payment therefor on the day on which the same was purchased, the tract shall be again offered at public sale on the next day of sale, and such person shall not be capable of (1908)
becoming the purchaser of that or any other tract offered at such public sales.

Act April 24, 1820, c. 51, § 2, 3 Stat. 566.
See note to R. S. § 2366, post, § 4775.

§ 4758. (R. S. § 2357.) Price of lands, $1.25 per acre.
The price at which the public lands are offered for sale shall be one dollar and twenty-five cents an acre; and at every public sale, the highest bidder, who makes payment as provided in the preceding section, shall be the purchaser; but no land shall be sold, either at public or private sale, for a less price than one dollar and twenty-five cents an acre; and all the public lands which are hereafter offered at public sale, according to law, and remain unsold at the close of such public sales, shall be subject to be sold at private sale, by entry at the land-office, at one dollar and twenty-five cents an acre, to be paid at the time of making such entry: Provided, That the price to be paid for alternate reserved lands, along the line of railroads within the limits granted by any act of Congress, shall be two dollars and fifty cents per acre.

Act April 24, 1820, c. 51, § 3, 3 Stat. 596.
The price of alternate reserved sections along the line of railroad grants, subject to entry, and put on the market prior to Jan., 1881, was reduced from $2.50 per acre to $1.25 per acre, by Act June 15, 1880, c. 227, § 8, post, § 4758.
The price of forfeited railroad lands and certain reserved lands lying contiguous to certain railroad lands grants was fixed at $1.25 per acre, by Act March 2, 1889, c. 381, § 4, post, § 4762.
Private entry of public lands, except in Missouri, was prohibited by Act March 2, 1889, c. 381, § 1, post, § 4760.
Lands in Missouri were to be subject to private entry, although they had not been offered at public sale, by Act May 18, 1898, c. 344, § 2, post, § 4764.
The sale of lands at public sale, with certain exceptions, was prohibited by Act March 3, 1891, c. 661, § 9, ante, § 4753.
Provisions for the subdivision, into lots of ten acres or less or into town lots, of certain lands in the State of Washington, and the appraisal and sale thereof at public sale for not less than the appraised value, were contained in Act June 9, 1906, c. 3067, 34 Stat. 229.
The sale to associations or corporations for cemetery purposes of not to exceed 30 acres of public lands was authorized by Act March 1, 1907, c. 2286, post, § 4765.

§ 4758. (Act June 15, 1880, c. 227, § 3.) Price of alternate sections of railroad lands reduced to $1.25 per acre.
The price of lands now subject to entry which were raised to two dollars and fifty cents per acre, and put in market prior to January, eighteen hundred and sixty one, by reason of the grant of alternate sections for railroad purposes is hereby reduced to one dollar and twenty-five cents per acre. (21 Stat. 238.)

This section and the section next following were parts of an act entitled "An act relating to the public lands of the United States."
Section 1 of that act relieved, under conditions specified, certain trespassers upon public lands from proceedings by the United States for acts done prior to March 1, 1879. Section 2 related to homestead entries already made. These sections are omitted, as temporary merely.
The price of alternate sections of railroad land was fixed at $2.50 per acre by R. S. § 2357, ante, § 4757.

Comp. St. '13—124 (1969)
§ 4759. (Act June 15, 1880, c. 227, § 4.) Act not to apply to mineral lands; persons not entitled to benefit of act.

This act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespass committed or material taken from any of the public lands after March first, eighteen hundred and seventy-nine shall be entitled to the benefit thereof. (21 Stat. 238.)

See notes to section 3 of this act, ante, § 4758.

§ 4760. (Act March 2, 1889, c. 381, § 1.) Private entry of lands forbidden; exceptions.

From and after the passage of this act no public lands of the United States, except those in the State of Missouri shall be subject to private entry. (25 Stat. 854.)

This section and the two sections next following were parts of an act entitled "An act to withdraw certain public lands from private entry, and for other purposes."

Sections 2, 3, 5-7, of the act related to homestead entries, and are set forth or referred to under chapter 5 of this Title, "Homesteads."

Other provisions relating to the sale of lands by private entry were made by R. S. §§ 2355-2357, ante, §§ 4755-4757, and Act May 18, 1898, c. 344, § 2, post, § 4764.

§ 4761. (Act March 2, 1889, c. 381, § 4.) Price of forfeited railroad lands and lands adjacent to railroad lands.

The price of all sections and parts of sections of the public lands within the limits of the portions of the several grants of lands to aid in the construction of railroads which have been heretofore and which may hereafter be forfeited, which were by the act making such grants or have since been increased to the double minimum price, and, also, of all lands within the limits of any such railroad grant, but not embraced in such grant lying adjacent to and coterminous with the portions of the line of any such railroad which shall not be completed at the date of this act, is hereby fixed at one dollar and twenty-five cents per acre. (25 Stat. 854.)

See notes to section 1 of this act, ante, § 4760.

§ 4762. (Act March 2, 1889, c. 381, § 8.) Effect of act on previous provisions.

Nothing in this act shall be construed as suspending, repealing or in any way rendering inoperative the provisions of the act entitled, "An act to provide for the disposal of abandoned and useless military reservations," approved July fifth, eighteen hundred and eighty-four. (25 Stat. 855.)

See notes to section 1 of this act, ante, § 4760.

Act July 5, 1884, c. 214, mentioned in this section, is set forth post, §§ 5003-5006.

§ 4763. (Act May 18, 1898, c. 344, § 1.) Distinction between offered and unoffered lands abolished.

In cases arising from and after the passage of this Act the distinction now obtaining in the statutes between offered and unoffered lands shall no longer be made in passing upon subsisting (1970)
preemption claims, in disposing of the public lands under the homestead laws, and under the timber and stone law of June third, eighteen hundred and seventy-eight, as extended by the Act of August fourth, eighteen hundred and ninety-two, but in all such cases hereafter arising the land in question shall be treated as unoffered, without regard to whether it may have actually been at some time offered or not. (30 Stat. 418.)

This section and the section next following were an act entitled "An act to abolish the distinction between offered and unoffered lands, and for other purposes."

The pre-emption laws were repealed by Act March 3, 1891, c. 501, § 4, 26 Stat. 1097. See note to chapter 4 of this Title.

The homestead laws are set forth ante, in chapter 5 of this Title.

The timber and stone law of June 3, 1878, as extended by Act Aug. 4, 1892, mentioned in this section, is set forth ante, §§ 4671–4673.

§ 4764. (Act May 18, 1898, c. 344, § 2.) Private sale of public lands in Missouri.

All public lands within the State of Missouri shall hereafter be subject to disposal at private sale in the manner now provided by law for the sale of lands which have been publicly offered for sale, whether such lands have ever been offered at public sale or not: Provided, That the actual settlers shall have a preference right, under such rules and regulations as the Secretary of the Interior may prescribe. (30 Stat. 418.)

See notes to section 1 of this act, ante. § 4763.

Private entry of lands other than those in Missouri was forbidden by Act March 2, 1889, c. 381, § 1, ante, § 4760.

§ 4765. (Act March 1, 1907, c. 2286.) Sale of lands for cemetery purposes.

That the Secretary of the Interior be, and he is hereby, authorized to sell and convey to any religious or fraternal association, or private corporation, empowered by the laws under which such corporation or association is organized or incorporated to hold real estate for cemetery purposes, not to exceed eighty acres of any unappropriated nonmineral public lands of the United States for cemetery purposes, upon the payment therefor by such corporation or association of the sum of not less than one dollar and twenty-five cents per acre: Provided, That title to any land disposed of under the provisions of this Act shall revert to the United States, should the land or any part thereof be sold or cease to be used for the purpose herein provided. (34 Stat. 1052.)

This was an act entitled "An act to authorize the sale of public lands for cemetery purposes."

§ 4766. (R. S. § 2358.) Public lands may be offered for sale in such proportions as the President chooses.

Whenever the President is authorized to cause the public lands, in any land-district, to be offered for sale, he may offer for sale, at first, only a part of the lands contained in such district, and at any subsequent time or times he may offer for sale in the same manner any other part, or the remainder of the lands contained in the same. Act March 31, 1808, c. 40, § 1, 2 Stat. 479.

See note to R. S. § 2353, ante, § 4751.

(1971)
§ 4767. (R. S. § 2359.) Advertisement of sales. The public lands which are exposed to public sale by order of the President shall be advertised for a period of not less than three nor more than six months prior to the day of sale, unless otherwise specially provided.

Act June 28, 1834, c. 102, 4 Stat. 702.

Proclamations relating to the sales of public lands were to be published in a newspaper printed and published in the State or Territory where the lands were situated, by Act Jan. 12, 1877, c. 18, § 2, post, § 4768.

See note to R. S. § 2353, ante, § 4751.

§ 4768. (Act Jan. 12, 1877, c. 18, § 2.) Publication of proclamations of sales. All executive proclamations relating to the sales of Public Lands shall be published in only one newspaper, the same to be printed and published in the State or Territory where the lands are situated, and to be designated by the Secretary of the Interior.

(19 Stat. 221.)

See notes to section 1 of this act, ante, § 4752.

§ 4769. (R. S. § 2360.) Duration of sales. The public sales of lands shall, respectively, be kept open for two weeks, and no longer, unless otherwise specially provided by law.

Act April 24, 1820, c. 61, § 5, 3 Stat. 667.

See note to R. S. § 2353, ante, § 4751.

§ 4770. (R. S. § 2361.) Several certificates issued to two or more purchasers of same section. Where two or more persons have become purchasers of a section or fractional section, the register of the land-office of the district in which the lands lie shall, on application of the parties, and a surrender of the original certificate, issue separate certificates, of the same date with the original, to each of the purchasers, or their assignees, in conformity with the division agreed on by them; but in no case shall the fractions so purchased be divided by other than north and south, or east and west, lines; nor shall any certificate issue for less than eighty acres.

Act May 23, 1828, c. 71, § 7, 4 Stat. 287.

See note to R. S. § 2353, ante, § 4751.

§ 4771. (R. S. § 2362.) Purchase-money refunded where sale cannot be confirmed. The Secretary of the Interior is authorized, upon proof being made, to his satisfaction, that any tract of land has been erroneously sold by the United States, so that from any cause the sale cannot be confirmed, to repay to the purchaser, or to his legal representatives or assignees, the sum of money which was paid therefor, out of any money in the Treasury not otherwise appropriated.


See note to R. S. § 2353, ante, § 4751.

§ 4772. (R. S. § 2363.) Refunding in certain cases, how done. Where any tract of land has been erroneously sold, as described in the preceding section, and the money which was paid for the same (1972)
has been invested in any stocks held in trust, or has been paid into the Treasury to the credit of any trust-fund, it is lawful, by the sale of such portion of the stocks as may be necessary for the purpose, or out of such trust-fund, to repay the purchase-money to the parties entitled thereto.

Act Feb. 28, 1859, c. 64, § 2, 11 Stat. 388.
See note to R. S. § 2353, ante, § 4751.

§ 4773. (R. S. § 2364.) Minimum price, how fixed when reservations sold.

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

Act July 2, 1864, c. 221, 13 Stat. 374.

§ 4774. (R. S. § 2365.) Highest bidder, when preferred in private sales.

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

Act April 24, 1826, c. 51, § 6, 3 Stat. 567.
See note to R. S. § 2357, ante, § 4757.

§ 4775. (R. S. § 2366.) What coins receivable in payment for public lands.

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


R. S. § 3564, mentioned in this section, provided that the value of standard foreign coins should be estimated and proclaimed annually. It was superseded by a similar provision of the McKinley Tariff Act of Oct. 1, 1890, c. 1244, § 32, 26 Stat. 624, which was itself superseded by a provision of the Wilson Tariff Act of Aug. 27, 1894, c. 349, § 25, post, § 6538.

R. S. § 3474, post, § 6380, provided that no gold or silver other than coin of standard fineness of the United States should be receivable in payment of dues to the United States, except as provided in this section and section 3567, post, § 6539, which provided that certain Spanish and Mexican pieces should be received at the Treasury, the Post-Offices, and the Land-Offices at certain fixed valuations.

(R. S. § 2357. Superseded.)

This section provided that wherever lands in California, subject to private entry, were withdrawn from the market for any cause, they should not thereafter be subject to private entry until after they had been open to homestead and pre-emption settlers for 90 days, and again offered at public sale. It was superseded by the withdrawal of all public lands, except those in Missouri, from private entry, by Act March 2, 1889, c. 381, § 1, ante, § 4760.

§ 4776. (R. S. § 2368.) Certain lands located in good faith by claims arising under treaty of Sept. 30, 1854, may be purchased, etc.

The Secretary of the Interior is authorized to permit the purchase,
§ 4776. THE PUBLIC LANDS

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


§ 4777. (R. S. § 2369.) Mistakes in entry of lands, provisions for.

In every case of a purchaser of public lands, at private sale, having entered at the land-office, a tract different from that he intended to purchase, and being desirous of having the error in his entry corrected, he shall make his application for that purpose to the register of the land-office; and if it appears from testimony satisfactory to the register and receiver, that an error in the entry has been made, and that the same was occasioned by original incorrect marks made by the surveyor, or by the obliteration or change of the original marks and numbers at corners of the tract of land; or that it has in any otherwise arisen from mistake or error of the surveyor, or officers of the land-office, the register and receiver shall report the case, with the testimony, and their opinion thereon, to the Secretary of the Interior, who is authorized to direct that the purchaser is at liberty to withdraw the entry so erroneously made, and that the monies which have been paid shall be applied in the purchase of other lands in the same district, or credited in the payment for other lands which have been purchased at the same office.

Act March 3, 1819, c. 98, 3 Stat. 526.
See note to R. S. § 2357, ante, § 4757.

§ 4778. (R. S. § 2370.) Mistakes in patent lands.

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

Act May 24, 1828, c. 96, 4 Stat. 301.
See note to R. S. § 2357, ante, § 4757.

§ 4779. (R. S. § 2371.) Mistakes in location of warrants.

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

Act March 3, 1853, c. 147, § 2, 10 Stat. 257.
See note to R. S. § 2357, ante, § 4757.
§ 4780. (R. S. § 2372, as amended, Act Feb. 24, 1909, c. 181.) Error in entry, selection, or location by mistake of numbers; proceedings upon; change of entry.

In all cases where an entry, selection, or location has been or shall hereafter be made of a tract of land not intended to be entered, the entryman, selector, or locator, or, in case of his death, his legal representatives, or, when the claim is by law transferable, his or their transferees, may, in any case coming within the provisions of this section, file his or their affidavit, with such additional evidence as can be procured showing the mistake as to the numbers of the tract intended to be entered and that every reasonable precaution and exertion was used to avoid the error, with the register and receiver of the land district in which such tract of land is situate, who should transmit the evidence submitted to them, in each case, together with their written opinion both as to the existence of the mistake and the credibility of every person testifying thereto, to the Commissioner of the General Land Office, who, if he be entirely satisfied that the mistake has been made and that every reasonable precaution and exertion has been made to avoid it, is authorized to change the entry and transfer the payment from the tract erroneously entered to that intended to be entered, if the same has not been disposed of and is subject to entry, or, if not subject to entry, then to any other tract liable to such entry, selection, or location; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize such change of entry, nor shall anything herein contained affect the right of third persons.


This section, as enacted in the Revised Statutes, was as follows:

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

It was amended to read as set forth here by Act Feb. 24, 1909, c. 181, last cited above, which act was entitled "An act to permit change of entry in case of mistake of the description of tracts intended to be entered."

(1975)
§ 4781  THE PUBLIC LANDS  (Tit. 32)

(R. S. § 2373. Repealed.)

This section imposed a penalty upon one who agreed with another that the other should not bid upon land offered for sale, or who by intimidation, combination, or unfair management prevented any person from bidding upon or purchasing any land. It was incorporated in Crim. Code, § 59, post, § 10228, and was repealed by Crim. Code, § 341, post, § 10615.

§ 4781. (R. S. § 2374.) Agreements to pay premium to purchasers at public sales.

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

Act March 31, 1830, c. 48, § 5, 4 Stat. 392.
See note to R. S. § 2353, ante, § 4761.

§ 4782. (R. S. § 2375.) Recovery of premiums paid to purchasers at public sales.

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

Act March 31, 1830, c. 48, § 5, 4 Stat. 392.
See note to R. S. § 2353, ante, § 4761.

§ 4783. (R. S. § 2376.) Discovery of agreements to pay premium by bill in equity.

If the party aggrieved have no legal evidence of such contract, bargain, agreement, or secret understanding, or of the payment of the excess, he may, by bill in equity, compel such purchaser to make discovery thereof; and if in such case the complainant shall ask for relief, the court in which the bill is pending may proceed to final decree between the parties to the same; but every such suit either in law or equity shall be commenced within six years next after the sale of such land by the United States.

Act March 31, 1830, c. 48, § 5, 4 Stat. 392.

(R. S. §§ 2377–2379. Transferred to Chapter 10A.)

R. S. § 2377, limited private entries by scrip issued to any State under Act July 2, 1862, for the establishment of an agricultural college therein, to no more than three sections of public lands in any one township.

R. S. § 2378, granted, for purposes of internal improvement, to each new State admitted into the Union, so much public land as, including the quantity granted before its admission, would make 600,000 acres; and R. S. § 2379, made provisions for selections and locations of such lands.

These three sections are placed, with other provisions relating to similar grants to States, under chapter 10A of this Title “Reservations and Grants to States for Public Purposes,” post, §§ 4873–4876.

(1976)
CHAPTER EIGHT

Reservation and Sale of Town-Sites on the Public Lands

Sec. 4784. Town-sites to be reserved.  
4785. Reservations to be surveyed into lots.  
4786. Town or city sites in public lands.  
4787. When towns established upon unsurveyed lands; extension limits, how adjusted.  
4788. When transcript maps of town are not filed in twelve months, proceedings by Secretary of Interior.  
4789. Where size of lots or town plat vary from general rule.  
4790. Title to lots subject to mineral rights.  
4791. Entry of town authorities in trust for occupants.  
4792. Entry under preceding section, when to be made.  
4793. Entry in proportion to number of inhabitants.  
4794. Quantity of land excluded from homestead entry for town-site.  
4795. Town-site exceeding maximum; excess to be opened to settlement, etc.  
4796. Town-site less than maximum; additional entry.  
4797. Certain acts of trustees to be void.  
4798. No title acquired to gold mines, etc., or to mining-claim, etc.  
4799. Town-site entries on mineral lands; title to minerals and mining-claims not acquired; title to lots subject to mining rights.  
4800. Military or other reservations, etc.  
4801. Inhabitants of towns on public lands, right of, to enter.  
4802. Entries by cities and towns for cemetery and park purposes.

§ 4784. (R. S. § 2380.) Town-sites to be reserved.  
The President is authorized to reserve from the public lands, whether surveyed or unsurveyed, town-sites on the shores of harbors, at the junction of rivers, important portages, or any natural or prospective centers of population.

Act March 3, 1863, c. 80, § 1, 12 Stat. 754.  
The lands within the abandoned naval reservations in Mississippi, situated on Back Bay, near Biloxi, were to be disposed of under the town-site laws only, by Act March 2, 1885, c. 182, 28 Stat. 814.  
The undisposed of lands on the abandoned Fort Buford Military Reservation were subject to entry under the town-site laws, by Act May 19, 1900, c. 484, 31 Stat. 180.  
Commutation for town-site purposes in Oklahoma, of homestead entries of certain ceded Indian lands, was authorized by Act March 11, 1902, c. 180, 32 Stat. 63.  
This chapter of the Revised Statutes was extended to and declared to be applicable to ceded Indian lands in Minnesota, by Act Feb. 9, 1903, c. 531, post, § 5019.  
Provisions for withdrawal from entry of lands needed for town-site purposes in connection with irrigation projects, and for survey and subdivision thereof, and appraisement and sale of lots, etc., were contained in Act April 16, 1906, c. 1651, ante, §§ 4715-4719; and town-sites previously set apart or established, under the provisions of this section and the section following, may be appraised and disposed of in accordance with the provisions of that act, by Act June 27, 1906, c. 3550, §§ 3, 4, ante, §§ 4722, 4723.  
Special provisions of various acts relating to town sites in Oklahoma are set forth post, under chapter 10J, of this Title, "Public Lands in Oklahoma;"
§ 4785

THE PUBLIC LANDS

and special provisions relating to townsites in Alaska are set forth post, under chapter 10K of this Title, "Public Lands in Alaska."

§ 4785. (R. S. § 2381.) Reservations to be surveyed into lots.

When, in the opinion of the President, the public interests require it, it shall be the duty of the Secretary of the Interior to cause any of such reservations, or part thereof, to be surveyed into urban or suburban lots of suitable size, and to fix by appraisement of disinterested persons their cash value, and to offer the same for sale at public outcry to the highest bidder, and thence afterward to be held subject to sale at private entry according to such regulations as the Secretary of the Interior may prescribe; but no lot shall be disposed of at public sale or private entry for less than the appraised value thereof. And all such sales shall be conducted by the register and receiver of the land-office in the district in which the reservations may be situated, in accordance with the instructions of the Commissioner of the General Land-Office.

Act March 3, 1863, c. 80, § 2, 12 Stat. 754.

§ 4786. (R. S. § 2382.) Town or city sites in public lands.

In any case in which parties have already founded, or may hereafter desire to found, a city or town on the public lands, it may be lawful for them to cause to be filed with the recorder for the county in which the same is situated, a plat thereof, for not exceeding six hundred and forty acres, describing its exterior boundaries according to the lines of the public surveys, where such surveys have been executed; also giving the name of such city or town, and exhibiting the streets, squares, blocks, lots, and alleys, the size of the same, with measurements and area of each municipal subdivision, the lots in which shall each not exceed four thousand two hundred square feet, with a statement of the extent and general character of the improvements; such map and statement to be verified under oath by the party acting for and in behalf of the persons proposing to establish such city or town; and within one month after such filing there shall be transmitted to the General Land-Office a verified transcript of such map and statement, accompanied by the testimony of two witnesses that such city or town has been established in good faith, and when the premises are within the limits of an organized land-district, a similar map and statement shall be filed with the register and receiver, and at any time after the filing of such map, statement, and testimony in the General Land-Office it may be lawful for the President to cause the lots embraced within the limits of such city or town to be offered at public sale to the highest bidder, subject to a minimum of ten dollars for each lot; and such lots as may not be disposed of at public sale shall thereafter be liable to private entry at such minimum, or at such reasonable increase or diminution thereafter as the Secretary of the Interior may order from time to time. After at least three months' notice, in view of the increase or decrease in the value of the municipal property, but any actual settler upon any one lot, as above provided, and upon any additional lot in which he may have substantial improvements shall be entitled to prove up

(1978)
and purchase the same as a pre-emption, at such minimum, at any
time before the day fixed for the public sale.
Act July 1, 1864, c. 205, § 2, 13 Stat. 343.
Lands ceded by the Shoshone and Bannock Indians of the Fort Hall Reser-
vation in Idaho were not to be disposed of under the town-site laws for less
than ten dollars per acre, by Act June 9, 1900, c. 513, § 5, 31 Stat. 676.

§ 4787. (R. S. § 2383.) When towns established upon unsurveyed
lands; extension limits, how adjusted.
When such cities or towns are established upon unsurveyed lands,
it may be lawful, after the extension thereto of the public surveys,
to adjust the extension limits of the premises according to those lines,
where it can be done without interference with rights which may be
vested by sale; and patents for all lots so disposed of at public or
private sale shall issue as in ordinary cases.
Act July 1, 1864, c. 205, § 3, 13 Stat. 344.

§ 4788. (R. S. § 2384.) When transcript maps of town are not
filed in twelve months, proceedings by Secretary of Interior.
If within twelve months from the establishment of a city or town
on the public domain, the parties interested refuse or fail to file in
the General Land-Office a transcript map, with the statement and
testimony called for by the provisions of section twenty-three hun-
dred and eighty-two, it may be lawful for the Secretary of the Inte-
terior to cause a survey and plat to be made of such city or town, and
thereafter the lots in the same shall be disposed of as required by
such provisions, with this exception, that they shall each be at an
increase of fifty per centum on the minimum of ten dollars per lot.
Act July 1, 1864, c. 205, § 4, 13 Stat. 344.
R. S. § 2382, mentioned in this section, is set forth ante, § 4788.

§ 4789. (R. S. § 2385.) Where size of lots or town plat vary from
general rule.
In the case of any city or town, in which the lots may be variant
as to size from the limitation fixed in section twenty-three hundred
and eighty-two, and in which the lots and buildings, as municipal
improvements, cover an area greater than six hundred and forty acres,
such variance as to size of lots or excess in area shall prove no bar to
such city or town claim under the provisions of that section; but the
minimum price of each lot in such city or town, which may contain
a greater number of square feet than the maximum named in that
section, shall be increased to such reasonable amount as the Secret-
tary of the Interior may by rule establish.
R. S. § 2382, mentioned in this section, is set forth ante, § 4786.

§ 4790. (R. S. § 2386.) Title to lots subject to mineral rights.
Where mineral veins are possessed, which possession is recognized
by local authority, and to the extent so possessed and recognized, the
title to town-lots to be acquired shall be subject to such recognized
possession and the necessary use thereof; but nothing contained in
(1979)
§ 4790  THE PUBLIC LANDS

This section shall be so construed as to recognize any color of title in possessors for mining purposes as against the United States.

Act March 3, 1866, c. 107, § 2, 13 Stat. 530.

Further provisions relating to minerals and mining-claims in lands entered as town-sites were made by R. S. § 2382, post, § 4798, and Act March 3, 1891, c. 581, § 16, post, § 4799.

§ 4791. (R. S. § 2387.) Entry of town authorities in trust for occupants.

Whenever any portion of the public lands have been or may be settled upon and occupied as a town-site, not subject to entry under the agricultural pre-emption laws, it is lawful, in case such town be incorporated, for the corporate authorities thereof, and, if not incorporated, for the judge of the county court for the county in which such town is situated, to enter at the proper land-office, and at the minimum price, the land so settled and occupied in trust for the several use and benefit of the occupants thereof, according to their respective interests; the execution of which trust, as to the disposal of the lots in such town, and the proceeds of the sales thereof, to be conducted under such regulations as may be prescribed by the legislative authority of the State or Territory in which the same may be situated.

Act March 2, 1867, c. 177, 14 Stat. 541.

See note to R. S. § 2388, post, § 4792.

§ 4792. (R. S. § 2388.) Entry under preceding section, when to be made.

The entry of the land provided for in the preceding section shall be made, or a declaratory statement of the purpose of the inhabitants to enter it as a town-site shall be filed with the register of the proper land-office, prior to the commencement of the public sale of the body of land in which it is included, and the entry or declaratory statement shall include only such land as is actually occupied by the town, and the title to which is in the United States; but in any Territory in which a land-office may not have been established, such declaratory statements may be filed with the surveyor-general of the surveying-district in which the lands are situated; who shall transmit the same to the General Land-Office.

Act March 2, 1867, c. 177, 14 Stat. 541.

The lands acquired from the Seminole Indians, after they had been opened to settlement by proclamation, might be entered under the provisions of this section and the preceding section, by Act March 2, 1889, c. 412, § 13, 25 Stat. 1005.

The Secretary of the Interior was required to reserve not to exceed one half section of land in each county in Oklahoma for county-seat purposes, said land to be entered under the provisions of this section and the preceding section, by Act March 8, 1891, c. 543, §§ 17, 37, post, § 5029.

§ 4793. (R. S. § 2389.) Entry in proportion to number of inhabitants.

If upon surveyed lands, the entry shall in its exterior limit be made in conformity to the legal subdivisions of the public lands authorized by law; and where the inhabitants are in number one hundred, and less than two hundred, shall embrace not exceeding three hundred and twenty acres; and in cases where the inhabitants of such town are more than two hundred, and less than one thousand, (1980)
shall embrace not exceeding six hundred and forty acres; and where
the number of inhabitants is one thousand and over one thousand,
shall embrace not exceeding twelve hundred and eighty acres; but
for each additional one thousand inhabitants, not exceeding five tho-
sand in all, a further grant of three hundred and twenty acres shall be
allowed.

Act March 2, 1867, c. 177, 14 Stat. 541.

Further provisions relating to the maximum quantity of land to be entered
as town-sites were made by Act March 3, 1877, c. 113, post, §§ 4794-4796.

Incorporated cities and towns were authorized to enter public lands for
cemetery and parks purposes, by Act Sept. 30, 1890, c. 1121, post, § 4802.

The inhabitants of any town located in Greer county, Oklahoma, were to be
entitled to enter the same as a town-site under the provisions of this and the
two preceding sections, by Act Jan. 18, 1897, c. 62, § 3, post, § 5042.

(R. S. § 2390. Temporary.)

This section provided that the words "not exceeding five thousand in all."
in the preceding section, should not apply to Salt Lake City, Utah, but that
lands might be entered for the full number of inhabitants of that city, not
exceeding fifteen thousand, and also provided that it might embrace the school
section number 36, covered by the city, for which indemnity should be given
when a grant was made of the sections for school purposes. It is omitted as
temporary merely and executed.

§ 4794. (Act March 3, 1877, c. 113, § 1.) Quantity of land exclud-
ed from homestead entry for town-site.

The existence or incorporation of any town upon the public
lands of the United States shall not be held to exclude from [pre-
emption or] homestead entry a greater quantity than twenty-five
hundred and sixty acres of land, or the maximum area which may
be entered as a town-site under existing laws, unless the entire
tract claimed or incorporated as such town-site shall, including
and in excess of the area above specified, be actually settled upon,
habitied, improved, and used for business and municipal purposes.
(19 Stat. 392.)

This section and the two sections next following were parts of an act enti-
tled "An act respecting the limits of reservations for town sites upon the
public domain." Section 2 of that act confirmed entries already made. It
is omitted as temporary merely.

The words "pre-emption or," inclosed in brackets in this section, were sup-
ersed by the repeal of the pre-emption laws by Act March 3, 1881, c. 561, §
4, 20 Stat. 1087. See notes to chapter 4 of this Title.

§ 4795. (Act March 3, 1877, c. 113, § 3.) Town-site exceeding
maximum; excess to be opened to settlement, etc.

Whenever the corporate limits of any town upon the public do-
main are shown or alleged to include lands in excess of the maxi-
um area specified in section one of this act, the Commissioner
of the General Land Office may require the authorities of such town,
and it shall be lawful for them, to elect what portion of said lands, in
compact form and embracing the actual site of the municipal occu-
pation and improvement, shall be withheld from [pre-emption and]
homestead entry; and thereafter the residue of such lands shall be
open to disposal under the homestead [and pre-emption] laws. And
upon default of said town authorities to make such selection within
sixty days after notification by the Commissioner, he may direct

(1981)
testimony respecting the actual location and extent of said improvements, to be taken by the register and receiver of the district in which such town may be situated; and, upon receipt of the same, he may determine and set off the proper site according to section one of this act, and declare the remaining lands open to settlement and entry under the homestead [and pre-emption] laws; * * *(19 Stat. 392.)

The words inclosed in brackets in this section were superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 501, § 4, 26 Stat. 1007. See notes to chapter 4 of this Title.

The last provision of this section, omitted here, required the Secretary of a Territory to furnish to the surveyor-general of the Territory a certified copy of all acts incorporating cities and towns. It was superseded by the provisions forbidding the passage by any Territorial legislature of special acts incorporating cities and towns of Act July 30, 1886, c. 518, § 1, ante, § 3479.

§ 4796. (Act March 3, 1877, c. 113, § 4.) Town-site less than maximum; additional entry.

It shall be lawful for any town which has made, or may hereafter make entry of less than the maximum quantity of land named in section twenty-three hundred and eighty-nine of the Revised Statutes to make such additional entry, or entries, of contiguous tracts, which may be occupied for town purposes as when added to the entry or entries therefore made will not exceed twenty-five hundred and sixty acres: Provided, That such additional entry shall not together with all prior entries be in excess of the area to which the town may be entitled at date of the additional entry by virtue of its population as prescribed in said section twenty-three hundred and eighty-nine. (19 Stat. 392.)

R. S. § 2390, mentioned in this section, is set forth ante, § 4793.

§ 4797. (R. S. § 2391.) Certain acts of trustees to be void.

Any act of the trustees not made in conformity to the regulations alluded to in section twenty-three hundred and eighty-seven shall be void.

Act March 2, 1867, c. 177, 14 Stat. 541.
R. S. § 2387, mentioned in this section, is set forth ante, § 4791.

§ 4798. (R. S. § 2392.) No title acquired to gold-mines, etc., or to mining-claim, etc.

No title shall be acquired, under the foregoing provisions of this chapter, to any mine of gold, silver, cinnabar, or copper; or to any valid mining-claim or possession held under existing laws.


§ 4799. (Act March 3, 1891, c. 561, § 16.) Town-site entries on mineral lands; title to minerals and mining-claims not acquired; title to lots subject to mining rights.

Town-site entries may be made by incorporated towns and cities on the mineral lands of the United States, but no title shall be acquired by such towns or cities to any vein of gold, silver, cinnabar, copper, or lead, or to any valid mining claim or possession held under existing law. When mineral veins are possessed within the lim-
its of an incorporated town or city, and such possession is recognized
by local authority or by the laws of the United States, the title to
town lots shall be subject to such recognized possession and the
necessary use thereof and when entry has been made or patent issued
for such town sites to such incorporated town or city, the possessor
of such mineral vein may enter and receive patent for such mineral
vein, and the surface ground appertaining thereto: Provided, That
no entry shall be made by such mineral-vein claimant for surface
ground where the owner or occupier of the surface ground shall
have had possession of the same before the inception of the title of
the mineral-vein applicant. (26 Stat. 1101.)

This section was part of the act to repeal timber-culture laws, etc., cited
above.

See note to R. S. § 2392, ante, § 4798.

§ 4800. (R. S. § 2393.) Military or other reservations, etc.
The provisions of this chapter shall not apply to military or other
reservations heretofore made by the United States, nor to reserva-
tions for light-houses, custom-houses, mints, or such other public
purposes as the interests of the United States may require, whether
held under reservations through the Land-Office by title derived from
the Crown of Spain, or otherwise.

Act March 2, 1867, c. 177, 14 Stat. 541.

§ 4801. (R. S. § 2394.) Inhabitants of towns on public lands,
right of, to enter.

The inhabitants of any town located on the public lands may avail
themselves, if the town authorities choose to do so, of the provi-
sions of sections twenty-three hundred and eighty-seven, twenty-three
hundred and eighty-eight, and twenty-three hundred and eighty-nine;
and in addition to the minimum price of the lands embracing any
town-site so entered, there shall be paid by the parties availing them-
selves of such provisions all costs of surveying and platting any such
town-site, and expenses incident thereto incurred by the United
States, before any patent issues therefor; but nothing contained in
the sections herein cited shall prevent the issuance of patents to
persons who have made or may hereafter make entries, and elect
to proceed under other laws relative to town-sites in this chapter set
forth.

R. S. §§ 2387, 2388 and 2389, mentioned in this section, are set forth ante,
§§ 4791-4793.

§ 4802. (Act Sept. 30, 1890, c. 1121.) Entries by cities and towns
for cemetery and park purposes.

Incorporated cities and towns shall have the right, under rules
and regulations prescribed by the Secretary of the Interior, to
purchase for cemetery and park purposes not exceeding one-quarter
section of public lands not reserved for public use, such lands to
be within three miles of such cities or towns: Provided, That
when such city or town is situated within a mining district, the
land proposed to be taken under this act shall be considered as
mineral lands, and patent to such land shall not authorize such
(1883)
§ 4802. THE PUBLIC LANDS

City or town to extract mineral therefrom, but all such mineral shall be reserved to the United States, and such reservation shall be entered into such patent. (26 Stat. 502.)

This was an act entitled "An act to authorize entry of public lands by incorporated cities and towns for cemetery and park purposes."

CHAPTER NINE

Survey of the Public Lands


The public lands shall be divided by north and south lines run according to the true meridian, and by others crossing them at right angles, so as to form townships of six miles square, unless where the line of an Indian reservation, or of tracts of land heretofore surveyed or patented, or the course of navigable rivers, may render this impracticable; and in that case this rule must be departed from no further than such particular circumstances require.

Second. The corners of the townships must be marked with progressive numbers from the beginning; each distance of a mile between such corners must be also distinctly marked with marks different from those of the corners.

Third. The township shall be subdivided into sections, containing, as nearly as may be, six hundred and forty acres each, by running through the same, each way, parallel lines at the end of every two miles; and by making a corner on each of such lines, at the end of every mile. The sections shall be numbered respectively beginning (1984)
with the number one in the northeast section and proceeding west and east alternately through the township with progressive numbers till the thirty-six be completed.

Fourth. The deputy surveyors, respectively, shall cause to be marked on a tree near each corner established in the manner described, and within the section, the number of such section, and over it the number of the township within which such section may be; and the deputy surveyors shall carefully note, in their respective field-books, the names of the corner-trees marked and the numbers so made.

Fifth. Where the exterior lines of the townships which may be subdivided into sections or half-sections exceed, or do not extend six miles, the excess or deficiency shall be specially noted, and added to or deducted from the western and northern ranges of sections or half-sections in such township, according as the error may be in running the lines from east to west, or from north to south; the sections and half-sections bounded on the northern and western lines of such townships shall be sold as containing only the quantity expressed in the returns and plats respectively, and all others as containing the complete legal quantity.

Sixth. All lines shall be plainly marked upon trees, and measured with chains, containing two perches of sixteen and one-half feet each, subdivided into twenty-five equal links; and the chain shall be adjusted to a standard to be kept for that purpose.

Seventh. Every surveyor shall note in his field-book the true situations of all mines, salt licks, salt springs, and mill-seats which come to his knowledge; all water-courses over which the line he runs may pass; and also the quality of the lands.

Eighth. These field-books shall be returned to the surveyor-general, who shall cause therefrom a description of the whole lands surveyed to be made out and transmitted to the officers who may superintend the sales. He shall also cause a fair plat to be made of the townships and fractional parts of townships contained in the lands, describing the subdivisions thereof, and the marks of the corners. This plat shall be recorded in books to be kept for that purpose; and a copy thereof shall be kept open at the surveyor-general's office for public information, and other copies shall be sent to the places of the sale, and to the General Land-Office.

Act May 18, 1796, c. 29, § 2, 1 Stat. 465. Act May 10, 1800, c. 55, § 3, 2 Stat. 78.

Surveys of forest reserves were provided for by Act June 4, 1897, c. 2, § 1, par. 2, post, § 5124, and Act March 3, 1899, c. 424, § 1, post, § 5136.

Surveys of abandoned military reservations were provided for by Act July 5, 1884, c. 214, § 2, post, § 5004.

The system of public land surveys was extended to Alaska by Act March 3, 1899, c. 424, § 1, post, § 5045.

§ 4804. (R. S. § 2396.) Boundaries and contents of public lands, how ascertained.

The boundaries and contents of the several sections, half-sections, and quarter-sections of the public lands shall be ascertained in conformity with the following principles:

First. All the corners marked in the surveys, returned by the sur-
veyor-general, shall be established as the proper corners of sections, or subdivisions of sections, which they were intended to designate; and the corners of half and quarter sections, not marked on the surveys, shall be placed as nearly as possible equidistant from two corners which stand on the same line.

Second. The boundary-lines, actually run and marked in the surveys returned by the surveyor-general, shall be established as the proper boundary-lines of the sections, or subdivisions, for which they were intended, and the length of such lines, as returned, shall be held and considered as the true length thereof. And the boundary-lines which have not been actually run and marked shall be ascertained, by running straight lines from the established corners to the opposite corresponding corners; but in those portions of the fractional townships where no such opposite corresponding corners have been or can be fixed, the boundary-lines shall be ascertained by running from the established corners due north and south or east and west lines, as the case may be, to the water-course, Indian boundary-line, or other external boundary of such fractional township.

Third. Each section or subdivision of section, the contents whereof have been returned by the surveyor-general, shall be held and considered as containing the exact quantity expressed in such return; and the half-sections and quarter-sections, the contents whereof shall not have been thus returned, shall be held and considered as containing the one-half or the one-fourth part, respectively, of the returned contents of the section of which they may make part.


§ 4805. (R. S. § 2397.) Lines of division of half quarter-sections, how run.

In every case of the division of a quarter-section the line for the division thereof shall run north and south, and the corners and contents of half quarter-sections which may thereafter be sold, shall be ascertained in the manner and on the principles directed and prescribed by the section preceding, and fractional sections containing one hundred and sixty acres or upwards shall in like manner as nearly as practicable be subdivided into half quarter-sections, under such rules and regulations as may be prescribed by the Secretary of the Interior, and in every case of a division of a half quarter-section, the line for the division thereof shall run east and west, and the corners and contents of quarter quarter-sections, which may thereafter be sold, shall be ascertained as nearly as may be, in the manner, and on the principles, directed and prescribed by the section preceding; and fractional sections containing fewer or more than one hundred and sixty acres shall in like manner, as nearly as may be practicable, be subdivided into quarter quarter-sections, under such rules and regulations as may be prescribed by the Secretary of the Interior.

Act April 24, 1820, c. 51, § 1, 3 Stat. 506. Act April 5, 1832, c. 65, 4 Stat. 503.

(1866)
§ 4806. (R. S. § 2398.) Contracts for surveys of public lands, when binding.

Contracts for the survey of the public lands shall not become binding upon the United States until approved by the Commissioner of the General Land-Office, except in such cases as the Commissioner may otherwise specially order.

Act May 30, 1862, c. 86, § 1, 12 Stat. 400.

§ 4807. (R. S. § 2399, as amended, Act Oct. 1, 1890, c. 1262, Act Aug. 15, 1894, c. 288, and Act April 26, 1902, c. 592.) What instructions to be deemed part of contract.

The printed manual of surveying instructions for the survey of the public lands of the United States and private land claims, prepared at the General Land Office, and bearing date January first, nineteen hundred and two, the instructions of the Commissioner of the General Land Office, and the special instructions of the surveyor-general, when not in conflict with said printed manual or the instructions of said Commissioner, shall be taken and deemed to be a part of every contract for surveying the public lands of the United States and private land claims.


This section, as originally enacted, made the manual of Feb. 22, 1855, part of every contract for surveying. It was amended by Act Oct. 1, 1890, c. 1262, cited above, to provide that the manual of Dec. 2, 1889, should be a part of every such contract, and was again amended by Act Aug. 15, 1894, c. 288, also cited above, by substituting the manual of June 30, 1894, and was further amended by Act April 26, 1902, c. 592, last cited above, by substituting the Manual of January 1, 1902, as set forth here.

§ 4808. (R. S. § 2400, as amended, Act March 3, 1875, c. 130, § 1.) Prices of surveys, how established.

The Commissioner of the General Land-Office has power, and it shall be his duty, to fix the prices per mile for public surveys, which shall in no case exceed the maximum established by law; *


The part of this section omitted here required an accurate account of the cost of surveying and platting private land-claims to be kept by the surveyor-general and reported to the General Land Office, and also provided that patents for private land claims should not issue until the cost of surveying and platting them had been paid by the claimant. This last provision, requiring payment by the claimant of the cost of the survey, was repealed by Act March 3, 1875, c. 130, § 1, 18 Stat. 384.

All the provisions of this section, as enacted in the Revised Statutes, which are omitted here, were superseded and substantially re-enacted by Act July 31, 1876, c. 246, post. § 4809, and the requirement of the payment of the cost of surveying and platting private land claims before issuance of patent was again substantially re-enacted by Act March 3, 1885, c. 360, post. § 4810.

Appropriations for surveys and rescourses of the public lands are made in the annual sundry civil appropriation acts, in which the rates of payment therefore are prescribed or limited for the particular year. The provisions for the fiscal year 1914 were by Act June 22, 1913, c. 3, § 1, 38 Stat. 46.

§ 4809. (Act July 31, 1876, c. 246.) Cost of survey of private land claims to be reported and paid.

That an accurate account shall be kept by each surveyor-gen-
eral of the cost of surveying and platting every private land claim to be reported to the General Land Office with the map of such claim; and that a patent shall not issue nor shall any copy of any such survey be furnished for any such private claim until the cost of survey and platting shall have been paid into the Treasury of the United States by the party or parties in interest in said grant or by any other party. (19 Stat. 121.)

This was a provision of the sundry civil appropriation act for the fiscal year 1877, cited above.

A proviso annexed to this provision, requiring, before a conveyance of land granted to any railroad company, payment of the cost of surveying, etc., the same, is set forth post, § 4882.

§ 4810. (Act March 3, 1885, c. 360.) Cost of survey of private land claims to be paid.

That hereafter in all cases of the survey of private land claims the cost of the same shall be refunded to the Treasury by the owner before the delivery of the patent. (23 Stat. 499.)

This was a provision of the sundry civil appropriation act for the fiscal year 1888, cited above.

See note to R. S. § 2400, ante, § 4808.

§ 4811. (R. S. § 2401, as amended, Act Aug. 20, 1894, c. 302, § 1.)

When survey may be had by settlers in township.

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


This section as originally enacted was as follows:

"When the settlers in any township, not mineral or reserved by Government, desire a survey made of the same, under the authority of the surveyor-general, and file an application therefor in writing, and deposit in a proper United States depository, to the credit of the United States, a sum sufficient to pay for such survey, together with all expenses incident thereto, without cost or claim for indemnity on the United States, it may be lawful for the surveyor-general, under such instructions as may be given him by the Commissioner of the General Land-Office, and in accordance with law, to survey such township and make return thereof to the general and proper local land-office, provided the township so proposed to be surveyed is within the range of the reg-

(1888)
ular progress of the public surveys embraced by existing standard lines or bases for the township and subdivisional surveys."

It was amended by Act Aug. 20, 1894, c. 302, § 1, cited above, to read as set forth here.

The deposits in Louisiana may be used in making resurveys, by Act Aug. 7, 1882, c. 433, § 1, post, § 4815.

Resurveys of particular public lands, without petitions therefor from settlers on such lands, were authorized by special acts: Lands in Nebraska, by Act May 19, 1908, c. 176, 35 Stat. 105; in Wyoming, by Act May 29, 1908, c. 220, §§ 1, 2, 35 Stat. 495; in Louisiana, by Act May 25, 1906, c. 2554, 34 Stat. 199.

§ 4812. (R. S. § 2402.) Deposit for expenses of surveys deemed an appropriation, etc.

The deposit of money in a proper United States depository, under the provisions of the preceding section, shall be deemed an appropriation of the sums so deposited for the objects contemplated by that section, and the Secretary of the Treasury is authorized to cause the sums so deposited to be placed to the credit of the proper appropriations for the surveying-service; but any excesses in such sums over and above the actual cost of the surveys, comprising all expenses incident thereto, for which they were severally deposited, shall be repaid to the depositors respectively.

Res. July 1, 1894, No. 60, 13 Stat. 414.

A permanent appropriation for repayment to depositors of money for expenses incident to surveys of the excess over the actual cost and expenses of the surveys was made by R. S. § 3089, post, § 8709.

Besides the provisions of this section for repayment of excesses of deposits for expenses of surveys over the actual cost of the surveys, provisions for repayment of such excesses of deposits to cover the cost of survey of mineral lands were made by Act Feb. 24, 1909, c. 180, post, § 4813.


That the Secretary of the Treasury be, and he is hereby, authorized and directed to pay, out of the moneys heretofore or hereafter covered into the Treasury from deposits made by individuals to cover cost of work performed and to be performed in the offices of the United States surveyors-general in connection with the survey of mineral lands, any excess in the amount deposited over and above the actual cost of the work performed, including all expenses incident thereto for which the deposits were severally made or the whole of any unused deposit; and such sums, as the several cases may be, shall be deemed to be annually and permanently appropriated for that purpose. Such repayments shall be made to the person or persons who made the several deposits, or to his or their legal representatives, after the completion or abandonment of the work for which the deposits were made, and upon an account certified by the surveyor-general of the district in which the mineral land surveyed, or sought to be surveyed is situated and approved by the Commissioner of the General Land Office. (35 Stat. 645.)

This was an act entitled "An act for relief of applicants for mineral surveys."

Previous provisions for the repayment of excess amounts deposited to cov-
§ 4814. (R. S. § 2403, as amended, Act April 27, 1876, c. 84, Act March 3, 1879, c. 170, and Act Aug. 20, 1894, c. 302, § 2.) Deposits made by settlers for public surveys to go in part payment of lands.

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


This section, as originally enacted, was as follows:

"Where settlers make deposits in accordance with the provisions of this section twenty-four hundred and seven the amount so deposited shall go in part payment for their lands situated in the townships, the surveying of which is paid for out of such deposits."

It was amended by Act April 27, 1876, c. 84, cited above, by striking out the word "seven" and inserting in lieu thereof the word "one," and by providing that proceedings thereunder should have the same force and effect as though the section had been originally enacted as amended.

It was again amended by Act March 3, 1879, c. 170, 20 Stat. 352, by adding, at the end of the section, the following provision:

"Or the certificates issued for such deposits may be assigned by indorsement, and be received in payment for any public lands of the United States entered by settlers under the pre-emption and homestead laws of the United States, and not otherwise."

It was again amended by Act Aug. 20, 1894, c. 302, § 2, 28 Stat. 423, to read as set forth here.

R. S. § 2401, as amended by Act Aug. 20, 1894, c. 302, § 1, mentioned in this section, is set forth ante, § 4811.

A provision that no certificate issued under this section and Act March 3, 1879, c. 170, "shall be received in payment for lands except at the land office in which the lands surveyed for which the deposit was made are subject to entry," which was made by Act Aug. 7, 1882, c. 433, § 1, 22 Stat. 327, was superseded by the subsequent amendment of this section by Act Aug. 20, 1894, c. 302, § 2, last cited above, making the certificates receivable in payment for any public lands in the States where the surveys were made, entered, or to be entered.

§ 4815. (Act Aug. 7, 1882, c. 433, § 1.) Deposits in Louisiana applicable to resurveys; certificates of deposit receivable in payment for land.

The part of the sum hereby appropriated which may be apportioned to the surveying district of Louisiana, together with such sums as have been or may be deposited for surveys therein by actual settlers, under sections twenty-four hundred and one, twenty-four hundred and two, and twenty-four hundred and three of the Revised Statutes, may be, in whole or in part, employed in making
such resurveys as may be necessary in the discretion of the Commissioner of the General Land Office. (22 Stat. 327.)

This was a proviso annexed to an appropriation for surveying, in the sundry civil appropriation act for the fiscal year 1885, cited above.

The appropriation referred to was the annual appropriation for surveying the public lands.

R. S. §§ 2401, 2402, 2403, mentioned in this provision, are set forth ante, §§ 4813, 4812, 4814.

§ 4816. (R. S. § 2404.) Augmented rates for surveys of lands covered with forests, etc., in Oregon.

The Commissioner of the General Land-Office may authorize, in his discretion, public lands in Oregon, densely covered with forests or thick undergrowth, to be surveyed at augmented rates, not exceeding eighteen dollars per mile for standard parallels, fifteen dollars for townships, and twelve dollars for section lines.

Act July 15, 1870, c. 292, § 1, 16 Stat. 305.

See notes to R. S. § 2400, ante, § 4808.

§ 4817. (R. S. § 2405.) Augmented rates for surveys of lands covered with forests, etc., in California and Washington.

The Commissioner of the General Land-Office, in his discretion, may hereafter authorize public lands in California and in Washington [Territory], densely covered with forests or thick undergrowth, to be surveyed at augmented rates, not exceeding eighteen dollars per linear mile for standard parallels, sixteen dollars for townships, and fourteen dollars for section lines.

Act June 10, 1872, c. 415, § 1, 17 Stat. 358.

The word "Territory," inclosed in brackets in this section, was superseded by the admission of Washington into the Union by Act Feb. 22, 1889, c. 160, 25 Stat. 676.

See notes to R. S. § 2400, ante, § 4808.

§ 4818. (R. S. § 2406.) Geological surveys, extension of public surveys, expenses of subdividing.

There shall be no further geological survey by the Government, unless hereafter authorized by law. The public surveys shall extend over all mineral lands; and all subdividing of surveyed lands into lots less than one hundred and sixty acres may be done by county and local surveyors at the expense of claimants; but nothing in this section contained shall require the survey of waste or useless lands.


Subsequent provisions for geological surveys are collected ante, under Title XI, "The Department of the Interior," Chapter 9 A, "The Geological Survey."

Deputy surveyors, were required to make a critical examination of the character of sections 16 and 36 in any township in Colorado, and report in their field notes mineral discoveries, by Act April 2, 1884, c. 20, § 2, 23 Stat. 10; that act providing that the State of Colorado should select other lands for school purposes in lieu of sections 16 and 36 found to be mineral lands.

§ 4819. (R. S. § 2407.) Surveys on rivers in certain cases.

Whenever, in the opinion of the President, a departure from the ordinary method of surveying land on any river, lake, bayou, or water-course would promote the public interest, he may direct the surveyor-general in whose district such land is situated, and where

(1991)
§ 4819  

THE PUBLIC LANDS  

(Tit. 32)

the change is intended to be made, to cause the lands thus situated to be surveyed in tracts of two acres in width, fronting on any river, bayou, lake, or water-course, and running back the depth of forty acres; which tracts of land so surveyed shall be offered for sale entire, instead of in half-quarter sections, and in the usual manner and on the same terms in all respects as the other public lands of the United States.

Act May 24, 1824, c. 141, 4 Stat. 34.

§ 4820. (R. S. § 2408.)  

Lines of surveys in Nevada.

In extending the surveys of the public lands in the State of Nevada, the Secretary of the Interior may vary the lines of the subdivisions from a rectangular form, to suit the circumstances of the country.

Act July 4, 1866, c. 166, § 5, 14 Stat. 88.

§ 4821. (R. S. § 2409.)  

Geodetic method of survey in Oregon and California.

The Secretary of the Interior, if he deems it advisable, is authorized to continue the surveys in Oregon and California, to be made after what is known as the geodetic method, under such regulations and upon such terms as have been or may hereafter be prescribed by the Commissioner of the General Land-Office; but none other than township-lines shall be run where the land is unfit for cultivation; nor shall any deputy surveyor charge for any line except such as may be actually run and marked, or for any line not necessary to be run.

Act Sept. 27, 1860, c. 78, § 8, 9 Stat. 496.  


§ 4822. (R. S. § 2410.)  

Rectangular mode of survey, when may be departed from.

Whenever, in the opinion of the Secretary of the Interior, a departure from the rectangular mode of surveying and subdividing the public lands in California would promote the public interests, he may direct such change to be made in the mode of surveying and designating such lands as he deems proper, with reference to the existence of mountains, mineral deposits, and the advantages derived from timber and water privileges; but such lands shall not be surveyed into less than one hundred and sixty acres, or subdivided into less than forty acres.


§ 4823. (R. S. § 2411.)  

Compensation for surveying by the day in Oregon and California.

Whenever the public surveys, or any portion of them, in the States of Oregon and California, are so required to be made as to render it expedient to make compensation for the surveying thereof by the day instead of by the mile, it shall be lawful for the Commissioner of the General Land-Office, under the direction of the Secretary of the Interior, to make such fair and reasonable allowance as,
in his judgment, may be necessary to insure the accurate and faithful execution of the work.


The provisions of this section were extended to Colorado, Idaho, Montana, Nevada, Utah, Washington, Wyoming, Arizona, New Mexico, and Alaska, by special provisions annexed to the appropriations for the surveys contained in various sundry civil appropriation acts, but omitted in later similar appropriation acts.

The appropriation for the surveys for the fiscal year 1914, with the special provisions as to its expenditure, were contained in the sundry civil appropriation act for that year, Act June 23, 1913, c. 3, § 1, 38 Stat. 46.

See notes to R. S. § 2400, ante, § 4908.


The Secretary of the Interior may in his discretion cause to be made, as he may deem wise under the rectangular system now provided by law, such resurveys or retracements of the surveys of public lands as, after full investigation, he may deem essential to properly mark the boundaries of the public lands remaining undisposed of: Provided, That no such resurvey or retracement shall be so executed as to impair the bona fide rights or claims of any claimant, entryman, or owner of lands affected by such resurvey or retracement: Provided further, That not to exceed twenty per cent. of the total annual appropriation for surveys and resurveys of the public lands shall be used for the resurveys and retracements authorized hereby. (35 Stat. 845. 36 Stat. 884.)

This was an act entitled "An act authorizing the necessary resurvey of public lands."

The amendment of this act by Res. June 25, 1910, No. 40, cited above, consisted in changing the words "five per centum" in the last proviso, as originally enacted, to "twenty per centum," as set forth here.

Resurveys of particular public lands were authorized by special acts: Lands in Nebraska, by Act May 19, 1008, c. 176, 35 Stat. 165; in Wyoming, by Act May 29, 1908, c. 220, §§ 1, 2, 35 Stat. 465; in Louisiana, by Act May 25, 1908, c. 2554, 34 Stat. 199.

(R. S. § 2412. Repealed.)

This section imposed a penalty upon every person who, by threats or force, interrupted, hindered, or prevented the surveying of the public lands or of any private land-claim. It was incorporated in Crim. Code, § 68, post, § 10225, and was expressly repealed by Crim. Code, § 341, post, § 10316.

§ 4825. (R. S. § 2413.) Protection of surveyor by marshal of district.

Whenever the President is satisfied that forcible opposition has been offered, or is likely to be offered, to any surveyor or deputy surveyor in the discharge of his duties in surveying the public lands, it may be lawful for the President to order the marshal of the State or district, by himself or deputy, to attend such surveyor or deputy surveyor with sufficient force to protect such officer in the execution of his duty, and to remove force should any be offered.

Act May 29, 1830, c. 163, § 2, 4 Stat. 417.

(1903)
CHAPTER TEN
Bounty-Lands

§ 4826. Military bounty-land warrants and locations assignable.

§ 4827. Warrants located at $1.25; excess paid in cash.

§ 4828. Claims for bounty-lands in virtue of certain acts named, etc.

§ 4829. Same subject.

§ 4830. Bounty-lands for soldiers in certain wars.

§ 4831. Certain classes of persons in the Mexican war, their widows, etc., entitled to forty acres.

§ 4832. Militia and volunteers in service since 1812.

§ 4833. Persons not entitled under preceding sections.

§ 4834. Period of captivity added to actual service.

§ 4835. Warrant and patent to issue, when.

§ 4836. Widows of persons entitled.

§ 4837. Additional bounty-lands, etc.

§ 4838. Classes under last section specified.

§ 4839. What classes of persons entitled under R. S. § 2425, without regard to length of service.

§ 4840. Widows and children of persons entitled under R. S. § 2425.

§ 4841. Subsequent marriage of widow.

§ 4842. Minors under R. S. § 2423.

§ 4843. Proof of service.

§ 4844. Former evidence of right to bounty-land to be received in certain cases.

§ 4845. Allowance of time of service for distance from home to place of muster or discharge.

§ 4846. Indians included.

§ 4847. Former evidence of right to a pension to be received in certain cases on application for bounty-land.

§ 4848. Sales, mortgages, letters of attorney, etc., made before issue of warrant to be void.

§ 4849. Warrants to be located free of expense by Commissioner of Land-Office, etc.

§ 4850. Deserters not entitled to bounty-land.

§ 4851. Lost warrants, provisions for.

§ 4852. Discharges, omissions, and loss of, provided for.

§ 4853. New warrant issued in lieu of lost warrant.

§ 4854. Regulations by Secretary of Interior.

§ 4855. Mode of issuing patents to the heirs of persons entitled to bounty-land.

§ 4856. Death of claimant after establishing right and before issuing of warrant.

§ 4857. When proofs may be filed by legal representatives.

§ 4858. Relocation of military bounty-land warrants in cases of error.

§ 4859. Bounty warrants and indemnity certificates receivable in payment for lands.

§ 4826. (R. S. § 2414.) Military bounty-land warrants and locations assignable.

All warrants for military bounty-lands which have been or may hereafter be issued under any law of the United States, and all valid locations of the same which have been or may hereafter be made, are declared to be assignable by deed or instrument of writing, made and executed according to such form and pursuant to such regulations as may be prescribed by the Commissioner of the General Land-Office, so as to vest the assignee with all the rights of the original owner of the warrant or location.

Act March 22, 1852, c. 19, § 1, 10 Stat. 3. Act June 3, 1858, c. 84, § 2, 11 Stat. 306.

§ 4827. (R. S. § 2415.) Warrants located at $1.25; excess paid in cash.

The warrants which have been or may hereafter be issued in purs.
suance of law may be located according to the legal subdivisions of the public lands in one body upon any lands of the United States subject to private entry at the time of such location at the minimum price. When such warrant is located on lands which are subject to entry at a greater minimum than one dollar and twenty-five cents per acre, the locator shall pay to the United States in cash the difference between the value of such warrants at one dollar and twenty-five cents per acre and the tract of land located on. But where such tract is rated at one dollar and twenty-five cents per acre, and does not exceed the area specified in the warrant, it must be taken in full satisfaction thereof.

Act March 22, 1862, c. 19, § 1, 10 Stat. 3.

§ 4828. (R. S. § 2416.) Claims for bounty-lands in virtue of certain acts named, etc.

In all cases of warrants for bounty-lands, issued by virtue of an act approved July twenty-seven, one thousand eight hundred and forty-two, and of two acts approved January twenty-seven, one thousand eight hundred and thirty-five, therein and thereby revised, and of two acts to the same intent, respectively, approved June twenty-six, eighteen hundred and forty-eight, and February eight, eighteen hundred and fifty-four, for military services in the revolutionary war, or in the war of eighteen hundred and twelve with Great Britain, which remained unsatisfied on the second day of July, eighteen hundred and sixty-four, it is lawful for the person in whose name such warrant issued, his heirs or legal representatives, to enter in quarter-sections, at the proper local land-office in any of the States or Territories, the quantity of the public lands subject to private entry which he is entitled to under such warrant.


§ 4829. (R. S. § 2417.) Same subject.

All warrants for bounty-lands referred to in the preceding section may be located at any time, in conformity with the general laws in force at the time of such location.


§ 4830. (R. S. § 2418.) Bounty-lands for soldiers in certain wars.

Each of the surviving, or the widow or minor children of deceased commissioned and non-commissioned officers, musicians, or privates, whether of regulars, volunteers, rangers, or militia, who performed military service in any regiment, company, or detachment, in the service of the United States, in the war with Great Britain, declared on the eighteenth day of June, eighteen hundred and twelve, or in any of the Indian wars since seventeen hundred and ninety, and prior to the third of March, eighteen hundred and fifty, and each of the commissioned officers who was engaged in the military service of the United States in the war with Mexico, shall be entitled to lands as follows: Those who engaged to serve twelve months or during the war, and actually served nine months, shall receive one hundred and sixty acres, and those who engaged to serve six months, and actually served four months, shall receive eighty acres, and those who
engaged to serve for any or an indefinite period, and actually served one month, shall receive forty acres; but wherever any officer or soldier was honorably discharged in consequence of disability contracted in the service, before the expiration of his period of service, he shall receive the amount to which he would have been entitled if he had served the full period for which he had engaged to serve. All the persons enumerated in this section who enlisted in the regular army, or were mustered in any volunteer company for a period of not less than twelve months, and who served in the war with Mexico and received an honorable discharge, or who were killed or died of wounds received or sickness incurred in the course of such service, or were discharged before the expiration of the term of service in consequence of wounds received or sickness incurred in the course of such service, shall be entitled to receive a certificate or warrant for one hundred and sixty acres of land: or at option Treasury scrip for one hundred dollars bearing interest at six per cent. per annum, payable semi-annually, at the pleasure of the Government. In the event of the death of any one of the persons mentioned in this section during service, or after his discharge, and before the issuing of a certificate or warrant, the warrant or scrip shall be issued in favor of his family or relatives; first, to the widow and his children; second, to his father; third, to his mother; fourth, to his brothers and sisters.


An appropriation was made for the redemption of outstanding Treasury scrip, and the further issuance of such scrip was prohibited by Act March 8, 1849, c. 100, 9 Stat. 366. Notwithstanding that act, the provision of Act Feb. 11, 1847, c. 8, § 9, for the issuance of such scrip, was carried into R. S. §§ 2418, 2419, as set forth in this and the following section.

§ 4831. (R. S. § 2419.) Certain classes of persons in the Mexican war, their widows, etc., entitled to forty acres.

The persons enumerated in the preceding section received into service after the commencement of the war with Mexico, for less than twelve months, and who served such term, or were honorably discharged are entitled to receive a certificate or warrant for forty acres, or scrip for twenty-five dollars if preferred, and in the event of the death of such person during service, or after honorable discharge before the eleventh of February, eighteen hundred and forty-seven, the warrant or scrip shall issue to the wife, child, or children, if there be any, and if none, to the father, and if no father, to the mother of such soldier.

Act Feb. 11, 1847, c. 8, § 9, 9 Stat. 126.

See note to R. S. § 2418, ante, § 4820.

§ 4832. (R. S. § 2420.) Militia and volunteers in service since 1812.

Where the militia, or volunteers, or State troops of any State or Territory, subsequent to the eighteenth day of June, eighteen hundred and twelve, and prior to March twenty-second, eighteen hundred and fifty-two, were called into service, the officers and soldiers thereof shall be entitled to all the benefits of section two thousand (1996)
four hundred and eighteen upon proof of length of service as there-in required.

Act March 22, 1852, c. 19, § 4, 10 Stat. 4.
R. S. §§ 2418, 2420, mentioned in this section, are set forth ante, §§ 4830, 4832.

§ 4833. (R. S. § 2421.) Persons not entitled under preceding sections.

No person shall take any benefit under the provisions of the three preceding sections, if he has received, or is entitled to receive, any military land-bounty under any act of Congress passed prior to the twenty-second March, eighteen hundred and fifty-two.

Act Sept. 28, 1850, c. 85, § 1, 9 Stat. 520.

§ 4834. (R. S. § 2422.) Period of captivity added to actual service.

The period during which any officer or soldier remained in captivity with the enemy shall be estimated and added to the period of his actual service, and the person so retained in captivity shall receive land under the provisions of sections twenty-four hundred and eighteen and twenty-four hundred and twenty, in the same manner that he would be entitled in case he had entered the service for the whole term made up by the addition of the time of his captivity, and had served during such term.

Act Sept. 28, 1850, c. 85, § 2, 9 Stat. 520.
R. S. §§ 2418, 2420, mentioned in this section, are set forth ante, §§ 4830, 4832.

§ 4835. (R. S. § 2423.) Warrant and patent to issue, when.

Every person for whom provision is made by sections twenty-four hundred and eighteen and twenty-four hundred and twenty shall receive a warrant from the Department of the Interior for the quantity of land to which he is entitled; and, upon the return of such warrant, with evidence of the location thereof having been legally made to the General Land-Office, a patent shall be issued therefor.

Act Sept. 28, 1850, c. 85, § 3, 9 Stat. 520.
R. S. §§ 2418, 2420, mentioned in this section, are set forth ante, §§ 4830, 4832.

§ 4836. (R. S. § 2424.) Widows of persons entitled.

In the event of the death of any person, for whom provision is made by sections twenty-four hundred and eighteen and twenty-four hundred and twenty, and who did not receive bounty-land for his services, a like warrant shall issue in favor of his widow, who shall be entitled to one hundred and sixty acres of land in case her husband was killed in battle; nor shall a subsequent marriage impair the right of any widow to such warrant, if she be a widow at the time of making her application.

Act Sept. 28, 1850, c. 85, § 3, 9 Stat. 520.
R. S. §§ 2418, 2420, mentioned in this section, are set forth ante, §§ 4830, 4832.

§ 4837. (R. S. § 2425.) Additional bounty-lands, etc.

Each of the surviving persons specified in the classes enumerated in the following section, who has served for a period of not less than fourteen days, in any of the wars in which the United States

(1997)
§ 4837. (Tit. 32) THE PUBLIC LANDS

have been engaged since the year seventeen hundred and ninety, and prior to the third day of March, eighteen hundred and fifty-five, shall be entitled to receive a warrant from the Department of the Interior, for one hundred and sixty acres of land; and, where any person so entitled has, prior to the third day of March, eighteen hundred and fifty-five, received a warrant for any number of acres less than one hundred and sixty, he shall be allowed a warrant for such quantity of land only as will make, in the whole, with what he may have received prior to that date, one hundred and sixty acres.

Act March 3, 1855, c. 207, §§ 1, 3, 10 Stat. 701, 702.

§ 4838. (R. S. § 2426.) Classes under last section specified.

The classes of persons embraced as beneficiaries under the preceding section, are as follows, namely:

First. Commissioned and non-commissioned officers, musicians, and privates, whether of the regulars, volunteers, rangers, or militia, who were regularly mustered into the service of the United States.

Second. Commissioned and non-commissioned officers, seamen, ordinary seamen, flotilla-men, marines, clerks, and landsmen in the Navy.

Third. Militia, volunteers, and State troops of any State or Territory, called into military service, and regularly mustered therein, and whose services have been paid by the United States.

Fourth. Wagon-masters and teamsters who have been employed under the direction of competent authority, in time of war, in the transportation of military stores and supplies.

Fifth. Officers and soldiers of the revolutionary war, and marines, seamen, and other persons in the naval service of the United States during that war.

Sixth. Chaplains who served with the Army.

Seventh. Volunteers who served with the armed forces of the United States in any of the wars mentioned, subject to military orders, whether regularly mustered into the service of the United States or not.


§ 4839. (R. S. § 2427.) What classes of persons entitled under R. S. § 2425, without regard to length of service.

The following class of persons are included as beneficiaries under section twenty-four hundred and twenty-five, without regard to the length of service rendered.

First. Any of the classes of persons mentioned in section twenty-four hundred and twenty-six who have been actually engaged in any battle in any of the wars in which this country has been engaged since seventeen hundred and ninety, and prior to March third, eighteen hundred and fifty-five.

Second. Those volunteers who served at the invasion of Plattsburgh, in September, eighteen hundred and fourteen.

Third. The volunteers who served at the battle of King's Mountain, in the revolutionary war.

(1998)
Fourth. The volunteers who served at the battle of Nickojacl
against the confederate savages of the South.
Fifth. The volunteers who served at the attack on Lewistown, in
Delaware, by the British fleet, in the war of eighteen hundred and
twelve.

Act March 3, 1855, c. 207, §§ 3, 9, 11, 10 Stat. 702.
R. S. §§ 2425, 2426, mentioned in this section, are set forth ante, §§ 4837, 4838.

§ 4840. (R. S. § 2428.) Widows and children of persons entitled
under R. S. § 2425.
In the event of the death of any person who would be entitled to
a warrant, as provided in section twenty-four hundred and twenty-
five, leaving a widow, or, if no widow, a minor child, such widow or
such minor child shall receive a warrant for the same quantity of
land that the decedent would be entitled to receive, if living on the
third day of March, eighteen hundred and fifty-five.

Act March 3, 1855, c. 207, § 2, 10 Stat. 702.
R. S. § 2425, mentioned in this section, is set forth ante, § 4837.

§ 4841. (R. S. § 2429.) Subsequent marriage of widow.
A subsequent marriage shall not impair the right of any widow,
under the preceding section, if she be a widow at the time of her
application.

Act March 3, 1855, c. 207, § 2, 10 Stat. 702.

§ 4842. (R. S. § 2430.) Minors under R. S. § 2428.
Persons within the age of twenty-one years on the third day of
March, eighteen hundred and fifty-five, shall be considered minors
within the intent of section twenty-four hundred and twenty-eight.

Act March 3, 1855, c. 207, § 2, 10 Stat. 702.
R. S. § 2428, mentioned in this section, is set forth ante, § 4840.

§ 4843. (R. S. § 2431.) Proof of service.
Where no record evidence of the service for which a warrant is
claimed exists, parol evidence may be admitted to prove the service
performed, under such regulations as the Commissioner of Pensions
may prescribe.

Proof of loyalty of an applicant for bounty-land was dispensed with, where
the applicant was otherwise entitled thereto, by Act March 11, 1898, c. 57,
post, § 6388, amendatory of R. S. § 3480, post, § 6387.

§ 4844. (R. S. § 2432.) Former evidence of right to bounty-land
to be received in certain cases.
Where certificate or a warrant for bounty-land for any less quan-
tity than one hundred and sixty acres has been issued to any officer
or soldier, or to the widow or minor child of any officer or soldier,
the evidence upon which such certificate or warrant was issued shall
be received to establish the service of such officer or soldier in the
application of himself, or of his widow or minor child, for a warrant
for so much land as may be required to make up the full sum of one
hundred and sixty acres, to which he may be entitled under the pre-
ceding section, on proof of the identity of such officer or soldier, or,
in case of his death, of the marriage and identity of his widow, or, in case of her death, of the identity of his minor child. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that the former warrant was properly granted, he may require additional evidence, as well of the term as of the fact of service.

Act May 14, 1856, c. 20, § 1, 11 Stat. 8.

§ 4845. (R. S. § 2433.) Allowance of time of service for distance from home to place of muster or discharge.

When any company, battalion, or regiment, in an organized form, marched more than twenty miles to the place where they were mustered into the service of the United States, or were discharged more than twenty miles from the place where such company, battalion, or regiment was organized, in all such cases, in computing the length of service of the officers and soldiers of any such company, battalion, or regiment, there shall be allowed one day for every twenty miles from the place where the company, battalion, or regiment was organized to the place where the same was mustered into the service of the United States, and one day for every twenty miles from the place where such company, battalion, or regiment was discharged, to the place where it was organized, and from whence it marched to enter the service, provided that such march was in obedience to the command or direction of the President, or some general officer of the United States, commanding an army or department, or the chief executive officer of the State or Territory by which such company, battalion, or regiment was called into service.


§ 4846. (R. S. § 2434.) Indians included.

The provisions of all the bounty-land laws shall be extended to Indians, in the same manner and to the same extent as to white persons.

Act March 3, 1855, c. 207, § 7, 10 Stat. 702.

§ 4847. (R. S. § 2435.) Former evidence of right to a pension to be received in certain cases on application for bounty-land.

Where a pension has been granted to any officer or soldier, the evidence upon which such pension was granted shall be received to establish the service of such officer or soldier in his application for bounty-land; and upon proof of his identity as such pensioner, a warrant may be issued to him for the quantity of land to which he is entitled; and in case of the death of such pensioned officer or soldier, his widow shall be entitled to a warrant for the same quantity of land to which her husband would have been entitled, if living, upon proof that she is such widow; and in case of the death of such officer or soldier, leaving a minor child and no widow, or where the widow may have deceased before the issuing of any warrant, such minor child shall be entitled to a warrant for the same quantity of land as the father would have been entitled to receive if living, upon proof of the decease of father and mother. But if, upon a review of such evidence, the Commissioner of Pensions is not satisfied that
the pension was properly granted, he may require additional evidence, as well of the term as of the fact of service.


§ 4848. (R. S. § 2436.) Sales, mortgages, letters of attorney, etc., made before issue of warrant to be void.

All sales, mortgages, letters of attorney, or other instruments of writing, going to affect the title or claim to any warrant issued, or to be issued, or any land granted, or to be granted, under the preceding provisions of this chapter, made or executed prior to the issue of such warrant, shall be null and void to all intents and purposes whatsoever; nor shall such warrant, or the land obtained thereby, be in anywise affected by, or charged with, or subject to, the payment of any debt or claim incurred by any officer or soldier, prior to the issuing of the patent.


§ 4849. (R. S. § 2437.) Warrants to be located free of expense by Commissioner of Land-Office, etc.

It shall be the duty of the Commissioner of the General Land-Office, under such regulations as may be prescribed by the Secretary of the Interior, to cause to be located, free of expense, any warrant which the holder may transmit to the General Land-Office for that purpose, in such State or land-district as the holder or warrantee may designate, and upon good farming-land, so far as the same can be ascertained from the maps, plats, and field-notes of the surveyor, or from any other information in the possession of the local office, and, upon the location being made, the Secretary shall cause a patent to be transmitted to such warrantee or holder.


§ 4850. (R. S. § 2438.) Deserters not entitled to bounty-land.

No person who has been in the military service of the United States shall, in any case, receive a bounty-land warrant if it appears by the muster-rolls of his regiment or corps that he deserted or was dishonorably discharged from service.


§ 4851. (R. S. § 2439.) Lost warrants, provisions for.

When a soldier of the Regular Army, who has obtained a military land-warrant, loses the same, or such warrant is destroyed by accident, he shall, upon proof thereof to the satisfaction of the Secretary of the Interior, be entitled to a patent in like manner as if the warrant was produced.

Act April 27, 1816, c. 127, § 1, 3 Stat. 317.

§ 4852. (R. S. § 2440.) Discharges, omissions, and loss of, provided for.

In all cases of discharge from the military service of the United States of any soldier of the Regular Army, when it appears to the satisfaction of the Secretary of War that a certificate of faithful services has been omitted by the neglect of the discharging officer, by misconstruction of the law, or by any other neglect or casualty, such
§ 4852  THE PUBLIC LANDES  (Tit. 32)

omission shall not prevent the issuing of the warrant and patent as in other cases. And when it is proved that any soldier of the Reg-
ular Army has lost his discharge and certificate of faithful service, 
the Secretary of War shall cause such papers to be furnished such 
soldier as will entitle him to his land-warrant and patent, provided 
such measure is justified by the time of his enlistment, the period of 
service, and the report of some officer of the corps to which he was 
attached.

Act April 27, 1816, c. 127, § 2, 3 Stat. 317.

§ 4853. (R. S. § 2441.) New warrant issued in lieu of lost war-
rant.

Whenever it appears that any certificate or warrant, issued in purs-
 sueance of any law granting bounty-land, has been lost or destroyed, 
whether the same has been sold and assigned by the warrantee or not, 
the Secretary of the Interior is required to cause a new cer-
tificate or warrant of like tenor to be issued in lieu thereof; which 
new certificate or warrant may be assigned, located, and patented in 
like manner as other certificates or warrants for bounty-land are 
now authorized by law to be assigned, located, and patented; and in 
all cases where warrants have been, or may be, re-issued, the original 
warrant, in whosoever hands it may be, shall be deemed and held to 
be null and void, and the assignment thereof, if any there be, fraudu-
 lent; and no patent shall ever issue for any land located therewith, 
unless such presumption of fraud in the assignment be removed by 
due proof that the same was executed by the warrantee in good faith 
and for a valuable consideration.

Act June 23, 1860, c. 203, § 1, 12 Stat. 90.
The provisions of this section were made applicable to the reissue of agricul-
tural college land scrip canceled or destroyed without fault of the owner 
thereof, by Act June 20, 1874, c. 330, post, § 4872.

§ 4854. (R. S. § 2442.) Regulations by Secretary of Interior.

The Secretary of the Interior is required to prescribe such reg-
ulations for carrying the preceding section into effect as he may 
deem necessary and proper in order to protect the Government 
against imposition and fraud by persons claiming the benefit thereof; 
and all laws and parts of laws for the punishment of frauds against 
the United States are made applicable to frauds under that section.

See note to R. S. § 2441, ante, § 4853.

§ 4855. (R. S. § 2443.) Mode of issuing patents to the heirs of 
persons entitled to bounty-lands.

In all cases where an officer or soldier of the revolutionary war, 
or a soldier of the war of eighteen hundred and twelve, was entitled 
to bounty-land, has died before obtaining a patent for the land, and 
where application is made by a part only of the heirs of such de-
ceased officer or soldier for such bounty-land, it shall be the duty of 
the Secretary of the Interior to issue the patent in the name of the 
heirs of such deceased officer or soldier, without specifying each; 
and the patent so issued in the name of the heirs, generally, shall 
inure to the benefit of the whole, in such portions as they are sev-
(2002)
erally entitled to by the laws of descent in the State or Territory where the officer or soldier belonged at the time of his death.


§ 4856. (R. S. § 2444.) Death of claimant after establishing right and before issuing of warrant.

When proof has been or hereafter is filed in the Pension-Office, during the life-time of a claimant, establishing, to the satisfaction of that office, his right to a warrant for military services, and such warrant has not been, or may not be, issued until after the death of the claimant, and all such warrants as have been heretofore issued subsequent to the death of the claimant, the title to such warrants shall vest in his widow, if there be one, and if there be no widow, then in the heirs or legatees of the claimant; and all military bounty-land warrants issued pursuant to law shall be treated as personal chattels, and may be conveyed by assignment of such widow, heirs, or legatees, or by the legal representatives of the deceased claimant, for the use of such heirs or legatees only.

Act June 3, 1858, c. 84, § 1, 11 Stat. 508.

§ 4857. (R. S. § 2445.) When proofs may be filed by legal representatives.

The legal representatives of a deceased claimant for a bounty-land warrant, whose claim was filed prior to his death, may file the proofs necessary to perfect such claim.


§ 4858. (R. S. § 2446.) Relocation of military bounty-land warrants in cases of error.

Where an actual settler on the public lands has sought, or hereafter attempts, to locate the land settled on and improved by him, with a military bounty-land warrant, and where, from any cause, an error has occurred in making such location, he is authorized to relinquish the land so erroneously located, and to locate such warrant upon the land so settled upon and improved by him, if the same then be vacant, and if not, upon any other vacant land, on making proof of those facts to the satisfaction of the land-officers, according to such rules and regulations as may be prescribed by the Commissioner of the General Land-Office, and subject to his final adjudication.

Act March 3, 1853, c. 147, § 1, 10 Stat. 256.

§ 4859. (Act Dec. 13, 1894, c. 3.) Bounty warrants and indemnity certificates receivable in payment for lands.

In addition to the benefits now given thereto by law, all unsatisfied military bounty land warrants under any act of Congress, and unsatisfied indemnity certificates of location under the Act of Congress approved June second, eighteen hundred and fifty-eight, whether heretofore or hereafter issued, shall be receivable at the rate of one dollar and twenty-five cents per acre in payment or part payment for any lands entered under the desert land law of March third, eighteen hundred and eighty-seven, entitled "An Act to provide for the sale of desert lands in certain States and Territories," and the amendments thereto, the timber-culture law of (2003).
March third, eighteen hundred and seventy-three, entitled "An Act to encourage the growth of timber on the Western prairies," and the amendments thereto; the timber and stone law of June third, eighteen hundred and seventy-eight, entitled "An Act for the sale of timber lands in the States of California, Oregon, Nebraska, and Washington Territory," and the amendments thereto, or for lands which may be sold at public auction, except such lands as shall have been purchased from any Indian tribe within ten years last past. (28 Stat. 594.)

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

The unsatisfied indemnity certificates of location mentioned in this act were those authorized to be issued to certain named persons by Act June 2, 1858, c. 81, 11 Stat. 294.

The desert-land laws are set forth ante, under chapter 6B of this Title.

The timber-culture laws were repealed by Act March 3, 1891, c. 561, § 1, post, § 5116.

The timber and stone laws are set forth ante, under chapter 6A of this Title.

The laws relating to the sale and disposal of the public lands are contained in Chapter 7 of this Title.

CHAPTER TEN A

Reservations and Grants to States for Public Purposes

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes R. S. §§ 2275, 2276, 2286, 2377-2379, 2449, 2452-2457, and all other acts of a permanent, general nature relating to reservations by the United States, or grants to the various States, of public lands in aid of schools, universities, colleges, internal improvements, and other public purposes.

Sec. 4860. Settlements before survey on sections 16 or 36; deficiencies thereof.

4861. Selections to supply deficiencies of school lands.

4862. Selection of school lands upon ceded Indian reservations.

4863. Selection of phosphate or oil lands by Idaho under indemnity and other land grants; reservation of phosphates and oil to United States.

4864. Application for selection of phosphate or oil lands.

4865. Lands selected to be certified to State; reservation of phosphates and oil and right to prospect for and mine it; bond of prospector or miner; occupation of surface; damages to owner; objections to classification of lands; reserved phosphate and oil deposits not subject to exploration or entry.

4866. Provisions for selections to supply deficiencies of school lands, made applicable to grant of school lands to State of Utah.

4867. Additional school sections included in provisions as applicable to State of Utah.

4868. Provisions for selections to supply deficiencies of school lands made applicable to grant of school lands to Territory of New Mexico.

4869. Pre-emptions by counties for seats of justice.

4870. Fee-simple to pass in all grants of land to States and Territories.

4871. Patents for wagon-road grants to Oregon.
§ 4860. (R. S. § 2275, as amended, Act Feb. 28, 1891, c. 384.) Settlements before survey on sections 16 or 36; deficiencies thereof.

Where settlements with a view to pre-emption or homestead have been, or shall hereafter be made, before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the claims of such settlers; and if such sections, or either of them, have been or shall be granted, reserved, or pledged for the use of schools or colleges in the State or Territory in which they lie, other lands of equal acreage are hereby appropriated and granted, and may be selected by said State or Territory, in lieu of such as may be thus taken by pre-emption of homestead settlers. And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory where sections sixteen or thirty-six are mineral land, or are included within any Indian, military, or other reservation, or are otherwise disposed of by the United States: Provided, Where any State is entitled to said sections sixteen and thirty-six, or where said sections are reserved to any Territory, notwithstanding the same may be mineral land or embraced within a military, Indian, or other reservation, the selection of such lands in lieu thereof by said State or Territory shall be a waiver of its right to said sections. And other lands of equal acreage are also hereby appropriated and granted, and may be selected by said State or Territory to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever. And it shall be the duty of the Secretary of the Interior, without awaiting the extension of the public surveys, to ascertain and determine, by protraction or otherwise, the number of townships that will be included within such Indian, military, or other reservations, and thereupon the State or Territory shall be entitled to select indemnity lands to the extent of two sections for each of said townships, in lieu of sections sixteen and thirty-six therein; but such selections may not be made within the boundaries of said reservations: Provided, however, That nothing herein contained shall prevent any State or Territory from awaiting the extinguishment of any such military, Indian, or other reservation and the restoration of the lands therein embraced to the public domain and then taking the sections.
§ 4860

THE PUBLIC LANDS

(Tit. 32)

sixteen and thirty-six in place therein; but nothing in this proviso shall be construed as conferring any right not now existing.


This section as originally enacted was as follows:

"Where settlements, with a view to pre-emption, have been made before the survey of the lands in the field, which are found to have been made on sections sixteen or thirty-six, those sections shall be subject to the pre-emption claim of such settler; and if they, or either of them, have been or shall be reserved or pledged for the use of schools or colleges in the State or Territory in which the lands lie, other lands of like quantity are appropriated in lieu of such as may be patented by pre-emptors; and other lands are also appropriated to compensate deficiencies for school purposes, where sections sixteen or thirty-six are fractional in quantity, or where one or both are wanting by reason of the township being fractional, or from any natural cause whatever."

It was amended by Act Feb. 28, 1891, c. 384, cited above, to read as set forth here.

See notes to R. S. § 2276, post, § 4861.

§ 4861. (R. S. § 2276, as amended, Act Feb. 28, 1891, c. 384.)

Sections to supply deficiencies of school lands.

That the lands appropriated by the preceding section shall be selected from any unappropriated, surveyed public lands, not mineral in character, within the State or Territory where such losses or deficiencies of school sections occur; and where the selections are to compensate for deficiencies of school lands in fractional townships, such selections shall be made in accordance with the following principles of adjustment, to wit: For each township, or fractional township, containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township, containing a greater quantity of land than one-half, and not more than three-quarters of a township, three quarters of a section; for a fractional township, containing a greater quantity of land than one quarter, and not more than one half of a township, one-half section; and for a fractional township containing a greater quantity of land than one entire section, and not more than one-quarter of a township one-quarter section of land: Provided, That the States or Territories which are, or shall be entitled to both the sixteenth and thirty-sixth sections in place, shall have the right to select double the amounts named, to compensate for deficiencies of school land in fractional townships.


This section, as originally enacted, was as follows:

"The lands appropriated by the preceding section shall be selected, within the same land district, in accordance with the following principles of adjustment, to wit: For each township, or fractional township, containing a greater quantity of land than three-quarters of an entire township, one section; for a fractional township, containing a greater quantity of land than one-half, and not more than three-quarters, of a township, three-quarters of a section; for a fractional township, containing a greater quantity of land than one-quarter, and not more than one-half, of a township, one-half section; and for a fractional township, containing a greater quantity of land than one entire (2006)
section, and not more than one-quarter of a township, one quarter section of land."

It was amended by Act Feb. 28, 1891, c. 384, cited above, to read as set forth here.

Sections numbered 16 and 36, in each township in the Territories of New Mexico, Utah, Colorado, Dakota, Arizona, Idaho, Montana, Wyoming, and Washington were reserved for school purposes by Rev. St. §§ 1946, 1947; and in Oklahoma by Act May 2, 1890, c. 182, § 18, 26 Stat. 89, and Act Jan. 18, 1897, c. 62, § 4, 29 Stat. 490.

On the admission into the Union of new States formed from these Territories, the sections so reserved, or other lands equivalent thereto, were granted to each State, as similarly numbered sections had been granted to other public-land States, for the support of common schools, by the several acts admitting such States, as follows: Colorado, Act March 3, 1875, c. 138, § 7, 18 Stat. 475; North Dakota, South Dakota, Montana, and Washington, Act Feb. 22, 1889, c. 180, §§ 10, 18, 25 Stat. 679, 681, Act March 3, 1891, c. 543, § 38, 26 Stat. 1044; Idaho, Act July 3, 1880, c. 568, §§ 4, 13, 22 Stat. 215; Wyoming, Act July 10, 1890, c. 664, §§ 4, 13, 23 Stat. 222, 224; Utah, to which sections numbered 2, 16, 32, and 36, or other lands equivalent thereto, are granted, Act July 16, 1894, c. 138, § 6, 28 Stat. 109; and a similar grant to the Territory of New Mexico was made by Act June 21, 1898, c. 489, § 1, 30 Stat. 494.

The act providing for the admission into the Union of the Territory of Oklahoma and the Indian Territory as the State of Oklahoma granted sections 16 and 36 in every township in Oklahoma Territory and indemnity lands selected in lieu thereof, and the sum of $5,000,000 in lieu of sections 16 and 36 and other lands in the Indian Territory, to the State for the use and benefit of common schools, and granted other lands for the use and benefit of the University of Oklahoma and other educational institutions, with special provisions as to the disposal of said lands and the proceeds thereof. Act June 16, 1906, c. 3335, §§ 7–10, 12, 34 Stat. 272–274.

An amount equal to five per cent. of the proceeds of the sales of public lands within said State of Oklahoma, was to be paid to the State, to be used as a permanent fund, the interest to be expended for the support of common schools by Act June 16, 1906, c. 3335, § 11, 34 Stat. 274.

The act providing for the admission into the Union of the States of New Mexico and Arizona, granted to each State, in addition to sections 16 and 36 previously granted or reserved, sections 2 and 32 in every township not otherwise appropriated, for the support of common schools; and when those sections, or any parts thereof, are mineral, or have been sold, etc., or otherwise appropriated, the provisions of R. S. §§ 2275, 2276, were made applicable there to and to the selection of lands in lieu thereof. Act June 20, 1910, c. 310, §§ 6, 24, 36 Stat. 561, 572.

The State of Montana was permitted to reconvoy to the United States certain lands selected by and certified to said State under the provisions of the act admitting the State into the Union, and to select other lands in lieu thereof, by Act March 31, 1906, c. 1364, 34 Stat. 92, and Act April 12, 1910, c. 154, 36 Stat. 295.

The State of Montana was permitted to reconvoy to the United States certain lands selected as indemnity school land under the provisions of the act admitting the State into the Union, and to select other lands in lieu thereof, by Act April 28, 1906, c. 2008, 34 Stat. 150.

The selection by and grant to the several States of lands in lieu of or as indemnity for the sections so numbered, but exempted from the grant, or sold or otherwise disposed of, were provided for by subsequent acts, as follows: California, Act March 1, 1877, c. 81, 19 Stat. 267; Nevada, Act June 10, 1880, c. 245, 21 Stat. 287; Colorado, Act April 2, 1884, c. 20, § 1, 23 Stat. 10; Wyoming, Act Aug. 9, 1888, c. 819, § 6, 25 Stat. 393; Act July 10, 1890, c. 664, § 2, 26 Stat. 222; New Mexico, Act June 20, 1890, c. 310, § 6, 26 Stat. 561; Arizona, Act June 20, 1910, c. 310, § 24, 36 Stat. 572. And such indemnity school lands may be selected from surplus lands of any Indian
reservation purchased by the United States, by a provision of Act March 2, 1895, c. 188, § 1, 28 Stat. 899.


Grants of land for fractional townships for support of schools were made to the State of Missouri by Act June 22, 1874, c. 422, 18 Stat. 202.


A permanent appropriation for payment to certain States of five per cent. of the net proceeds of sales of all public lands within their limits, for the purpose of education, or of making public roads and improvements, in pursuance of certain acts specified, was made by Rev. St. § 3089, post, § 6799.


Grants to States and Territories which should provide colleges for the benefit of agriculture and the mechanic arts were made by Act July 2, 1892, c. 130, 12 Stat. 504. The selection of such lands was provided for, and special grants for such purposes to particular States were provided for, by the following acts: Colorado, Act April 2, 1884, c. 20, § 3, 23 Stat. 10; North Dakota, South Dakota, Montana, and Washington, Act Feb. 22, 1889, c. 180, § 16, 25 Stat. 681; Idaho, Act July 3, 1890, c. 656, § 10, 26 Stat. 216; Wyoming, Act July 10, 1890, c. 664, § 10, 26 Stat. 224; Utah, Act July 16, 1894, c. 138, §§ 8, 11, 28 Stat. 109, 110; Mississippi, Act Feb. 20, 1895, c. 106, 28 Stat. 573; New Mexico, Act June 21, 1898, c. 489, §§ 3, 5, 30 Stat. 484; Act June 20, 1910, c. 310, § 7, 36 Stat. 562; Arizona, Act June 20, 1910, c. 310, § 25, 36 Stat. 573; Oklahoma, Act June 6, 1906, c. 3335, § 12, 34 Stat. 274.

Provisions for the creation, from the proceeds of the lands granted, of a (2008)
permanent fund for the endowment of such colleges and for annual appropriations, out of moneys arising from sales of public lands, for more complete endowment, with other provisions relating to them, are set forth post, under Title LVI I, "Agricultural Colleges and Experiment Stations."
The reissue of agricultural college land scrip, lost, canceled, or destroyed without fault of the owner, was provided for by Act June 20, 1874, c. 390, post, § 4872.

Special grants to States admitted to the Union, for the support of normal schools, reform schools, and other educational institutions, were also contained in the respective acts of admission mentioned above.
The provisions of Act Feb. 28, 1891, c. 394, amending this section to read as set forth here, were made applicable to the State of Utah, and to the grant of school lands to that State, including sections 2 and 32 as well as 16 and 36 in each township or other lands equivalent thereto, as stated in this note by Act May 3, 1902, c. 683, post, §§ 4866, 4867.
The provisions of said Act Feb. 28, 1891, c. 394, were made applicable also to the Territory of New Mexico, by Act March 16, 1896, c. 83, post, § 4868.

Lands selected and appropriated in lieu of lands granted for school purposes to the Territory and State of Washington, under the several acts relating thereto, as stated in the notes under this section, when approved by the Secretary of the Interior, were to be deemed to have been granted to the State by Act Feb. 22, 1889, c. 180, and the title of the State thereto was confirmed by Act Dec. 18, 1902, c. 5, 32 Stat. 756.

Title to certain tracts of land previously selected by the State of Nebraska as indemnity for granted school lands, and certified to the State, but the certification of which was declared void, was confirmed to the State, by Act April 15, 1902, c. 506, 32 Stat. 105.

Selections by States in lieu of school sections in abandoned military reservations were confirmed, and provisions for the disposal of the lands in such school sections were made, by Act Feb. 11, 1903, c. 543, post, § 5012.
Selection by the State of Idaho of phosphate and oil lands under indemnity and other land grants, with a reservation of the phosphates and oil to the United States, was authorized by Act Feb. 27, 1913, c. 85, post, §§ 4863-4865.

Unsurveyed lands in Louisiana, which were shown by protraction to lie within section 16 in the same township as lands granted to that State as swamp lands under the provisions of the swamp land acts, were granted to the State for school purposes by Act April 23, 1912, c. 83, 37 Stat. 90.

Provisions for settlement on or sale of lands included in various agreements with certain Indian tribes mentioned in Act March 3, 1891, c. 543, 26 Stat. 689, were not to apply to sections 16 and 36 thereon, which in the States, were granted to the State in which they were situated, for the support of the common schools of the State, and in the Territories were reserved from occupancy, entry, or sale, under any land law of the United States, by section 88 of said act, 26 Stat. 1044; but that provision was not to apply to mineral land, which was to be disposed of under the laws applicable thereto.

§ 4862. (Act March 2, 1895, c. 188, § 1.) Selection of school lands upon ceded Indian reservations.
Any State or Territory entitled to indemnity school lands or entitled to select lands for educational purposes under existing law may select such lands within the boundaries of any Indian reservation in such State or Territory from the surplus lands thereof, purchased by the United States after allotments have been made to the Indians of such reservation, and prior to the opening of such reservation to settlement. (28 Stat. 899.)

This was a provision of the Indian appropriation act for the fiscal year 1896, cited above.

(2009)
§ 4863. (Act Feb. 27, 1913, c. 85, § 1.) Selection of phosphate or oil lands by Idaho under indemnity and other land grants; reservation of phosphates and oil to United States.

From and after the passage of this Act unreserved public lands of the United States in the State of Idaho which have been withdrawn or classified as phosphate or oil lands, or are valuable for phosphates or oil, shall, if otherwise available under existing law, be subject to selection by the State of Idaho under indemnity and other land grants made to it by Congress whenever such selections shall be made with a view of obtaining or passing title, with a reservation to the United States of the phosphates and oil in such lands, and of the right to prospect for, mine, and remove the same. (37 Stat. 687.)

This section and the two sections next following were an act entitled "An act to provide for selection by the State of Idaho of phosphate and oil lands."

§ 4864. (Act Feb. 27, 1913, c. 85, § 2.) Application for selection of phosphate or oil lands.

The State of Idaho, when applying to select lands classified as phosphate or oil lands, or valuable for phosphates or oil, with a view to securing or passing title to the same in accordance with the provisions of the indemnity and other granting Acts, shall state in the application for selection that same is made in accordance with and subject to the provisions and reservations of this Act. (37 Stat. 687.)

§ 4865. (Act Feb. 27, 1913, c. 85, § 3.) Lands selected to be certified to State; reservation of phosphates and oil and right to prospect for and mine it; bond of prospector or miner; occupation of surface; damages to owner; objections to classification of lands; reserved phosphate and oil deposits not subject to exploration or entry.

Upon satisfactory proof of full compliance with the provisions of the laws under which selection is made and this Act, the State shall, upon approval of the selection by the Secretary of the Interior, be entitled to have the lands certified to it, with a reservation to the United States of all the phosphates and oil in the land so certified, together with the right in the United States, or persons authorized by it, to prospect for, mine, and remove the same; but before any person not acting for the United States shall be entitled to enter upon the lands certified for the purpose of prospecting for phosphates or oil he shall furnish, subject to approval by the Secretary of the Interior, a bond or undertaking as security for the payment of all damages to the crops and improvements on said lands by reason of such prospecting for phosphates or oil. Any person who has acquired from the United States the oil or phosphate deposits in any such land, or the right to mine or remove the same, may reenter and occupy so much of the surface thereof as may be required for all purposes reasonably incident to the mining and removal of the oil or phosphate therefrom and mine and remove the oil or phosphate upon payment of the dam-
§ 4866. (Act May 3, 1902, c. 683, § 1.) Provisions for selections to supply deficiencies of school lands, made applicable to grant of school lands to State of Utah.

All the provisions of an Act of Congress approved February twenty-eighth, eighteen hundred and ninety-one, which provides for the selection of lands for educational purposes in lieu of those appropriated for other purposes, be, and the same are hereby, made applicable to the State of Utah, and the grant of school lands to said State, including sections two and thirty-two in each township, and indemnity therefor, shall be administered and adjusted in accordance with the provisions of said Act, anything in the Act approved July sixteenth, eighteen hundred and ninety-four, providing for the admission of said State into the Union, to the contrary notwithstanding. (32 Stat. 188.)

This section and the section next following were an act entitled "An act to make the provisions of an act of Congress approved February twenty-eighth, eighteen hundred and ninety-one (twenty-sixth Statutes, seven hundred and ninety-six), applicable to the State of Utah."

Act Feb. 28, 1891, c. 384, mentioned in this section, amended R. S. §§ 2275, 2276, and is incorporated in those sections as set forth ante, §§ 4860, 4861.

§ 4867. (Act May 3, 1902, c. 683, § 2.) Additional school sections included in provisions as applicable to State of Utah.

Wherever the words "sections sixteen and thirty-six" occur in said Act, the same as applicable to the State of Utah shall read: "sections two, sixteen, thirty-two, and thirty-six," and wherever the words "sixteenth and thirty-sixth sections" occur the same shall read: "second, sixteenth, thirty-second, and thirty-sixth sections," and wherever the words "sections sixteen or thirty-six" occur the same shall read: "sections two, sixteen, thirty-two, or thirty-six," and wherever the words "two sections" occur the same shall read "four sections." (32 Stat. 189.)

See notes to section 1 of this act, ante, § 4896.

Sections numbered 2, 16, 32, and 36, or other lands equivalent thereto, were granted to the State of Utah for school purposes, by Act July 10, 1894, c. 138, § 8, 28 Stat. 100.
§ 4868. (Act March 16, 1908, c. 88.) Provisions for selections to supply deficiencies of school lands made applicable to grant of school lands to Territory of New Mexico.

All the provisions of an Act of Congress approved February twenty-eighth, eighteen hundred and ninety-one, entitled "An Act to amend sections twenty-two hundred and seventy-five and twenty-two hundred and seventy-six of the Revised Statutes of the United States providing for the selection of lands for educational purposes in lieu of those appropriated for other purposes," be, and the same are hereby, made applicable to the [Territory of] New Mexico, and the grant of school lands to said [Territory], and indemnity therefor, shall be administered and adjusted in accordance with the provisions of said Act, anything in the Act of Congress approved June twenty-first, eighteen hundred and ninety-eight, making certain grants of land to the [Territory of] New Mexico, and for other purposes, to the contrary notwithstanding. (35 Stat. 44.)

This was an act entitled "An act to make the provisions of an act of Congress approved February twenty-eighth, eighteen hundred and ninety-one (twenty-sixth Statutes, page seven hundred and ninety-six), applicable to the Territory of New Mexico."

Act Feb. 28, 1891, c. 384, mentioned in this act, amended R. S. §§ 2275, 2276, and is incorporated in those sections as set forth ante, §§ 4860, 4861.

The words "Territory of," and "Territory," enclosed in brackets in this section, were superseded by the admission of New Mexico into the Union by Act June 20, 1910, c. 810, 36 Stat. 557, and Res. Aug. 21, 1911, No. 8, 37 Stat. 39.

§ 4869. (R. S. § 2286.) Pre-emptions by counties for seats of justice.

There shall be granted to the several counties or parishes of each State and Territory, where there are public lands, at the minimum price for which public lands of the United States are sold, the right of pre-emption to one quarter-section of land, in each of the counties or parishes, in trust for such counties or parishes, respectively, for the establishment of seats of justice therein; but the proceeds of the sale of each of such quarter-section shall be appropriated for the purpose of erecting public buildings in the county or parish for which it is located, after deducting therefrom the amount originally paid for the same. And the seat of justice for such counties or parishes, respectively, shall be fixed previously to a sale of the adjoining lands within the county or parish for which the same is located.

Act May 26, 1824, c. 169, § 1, 4 Stat. 50.

Reservations for county seats in Oklahoma were provided for by Act March 8, 1891, c. 543, § 37, post, § 5028.

§ 4870. (R. S. § 2449.) Fee-simple to pass in all grants of land to States and Territories.

Where lands have been or may hereafter be granted by any law of Congress to any one of the several States and Territories, and where such law does not convey the fee-simple title of the lands, or require patents to be issued therefor, the list of such lands which
THE PUBLIC LANDS § 4872

have been or may hereafter be certified by the Commissioner of the General Land-Office, under the seal of his office, either as originals or copies of the originals or records shall be regarded as conveying the fee-simple of all the lands embraced in such lists that are of the character contemplated by such act of Congress, and intended to be granted thereby; but where lands embraced in such lists are not of the character embraced by such acts of Congress, and are not intended to be granted thereby, the lists, so far as these lands are concerned, shall be perfectly null and void, and no right, title, claim, or interest shall be conveyed thereby.

Act Aug. 3, 1854, c. 201, 10 Stat. 346.
The issuance of patents for wagon-road grants to the State of Oregon was provided for by Act June 18, 1874, c. 305, post, § 4871.
The reissue of agricultural college land scrip lost, canceled, or destroyed without fault of the owner, is provided for by Act June 20, 1874, c. 330, post, § 4872.

§ 4871. (Act June 18, 1874, c. 305.) Patents for wagon-road grants to Oregon.

In all cases when the roads in aid of the construction of which said lands were granted are shown by the certificate of the governor of the State of Oregon, as in said acts provided, to have been constructed and completed, patents for said lands shall issue in due form to the State of Oregon as fast as the same shall, under said grants, be selected and certified, unless the State of Oregon shall by public act have transferred its interests in said lands to any corporation or corporations, in which case the patents shall issue from the General Land Office to such corporation or corporations upon their payment of the necessary expenses thereof: Provided, That this shall not be construed to revive any land grant already expired nor to create any new rights of any kind except to provide for issuing patents for lands to which the State is already entitled. (18 Stat. 80.)

This was an act entitled "An act to authorize the issuance of patents for lands granted to the State of Oregon in certain cases."

It was preceded by the following preamble:

"Whereas certain lands have heretofore, by acts of Congress, been granted to the State of Oregon to aid in the construction of certain military wagon-roads in said State, and there exists no law providing for the issuing of formal patents for said lands: Therefore,"


§ 4872. (Act June 20, 1874, c. 330.) Reissue of agricultural college land scrip lost or destroyed.

That the provisions of the act of Congress of the twenty-third day of June, eighteen hundred and sixty, relating to the reissue of land warrants in certain cases, be, and the same are hereby, extended so as to include the reissue of agricultural-college land scrip lost, cancelled or destroyed without the fault of the owner

(2013)
§ 4872 THE PUBLIC LANDS (Tit. 32)

thereof, under such rules and regulations as the Secretary of the Interior may prescribe. (18 Stat. 111.)

This was an act entitled, "An act to authorize the issue of duplicate agricultural land scrip where the original has been lost or destroyed."

The provisions of Act June 23, 1860, c. 203, relating to the reissue of warrants issued in pursuance of any law granting bounty-land, and lost or destroyed, mentioned in this act, were incorporated in Rev. St. §§ 2441, 2442, ante, §§ 4853, 4854.

The issue of agricultural college land scrip was authorized by Act July 2, 1862, c. 130, 12 Stat. 503.

§ 4873. (R. S. § 2377.) Limitation of entries by agricultural-college scrip.

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


See note to Rev. St. § 2357, ante, § 4751.

See note to Rev. St. § 2357, ante, § 4757, as to private entry of public lands.

See note to Rev. St. § 2276, ante, § 4901, as to grants of public lands to States for support of agricultural colleges.

§ 4874. (R. S. § 2378.) Grant to new States.

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


On the admission of Colorado to the Union, grants of lands were made to that State for public buildings, etc., and also 5 per cent. of the proceeds of the sale of agricultural public lands within the State after its admission, for the purpose of internal improvements, by the act admitting the State, Act March 3, 1875, c. 139, §§ 8, 9, 11, 18 Stat. 475, 476.

Subsequent acts admitting other States to the Union repeal the provisions of this section as to such States, and, in lieu of the grant made by it for purposes of internal improvement, make grants to each State for various schools and colleges, the State university, and other educational and charitable purposes, and for public buildings and institutions. Grants for such purposes to the States of North Dakota, South Dakota, Montana, and Washington, respectively, were made by Act Feb. 22, 1889, c. 180, §§ 12, 14-19, 25 Stat. 660, 681; Act March 3, 1893, c. 208, 27 Stat. 692; Act March 3, 1893, c. 210, § 1, 27 Stat. 661; and Act June 4, 1897, c. 2, 30 Stat. 56; to the State of Idaho by Act July 3, 1890, c. 656, §§ 6, 9, 11-14, 25 Stat. 216; to the State of Wyoming by Act July 10, 1890, c. 684, §§ 6, 9, 11-14, 26 Stat. 223, 224, and Act April 23, 1909, c. 254, 31 Stat. 139; to the State of Utah by Act July 16, 1894, c. 138, §§ 7, 12, 13, 28 Stat. 109, 110; to the State of Oklahoma by Act June 16, 1906, c. 3335, § 12, 34 Stat. 274.

Similar grants to the Territory of New Mexico were made by Act June 21, 1889, c. 499, §§ 2, 6-12, 30 Stat. 484, 485; and to the States of New Mexico and Arizona by Act June 20, 1910, c. 310, §§ 7-12, 25-30, 37 Stat. 562, 573.

All these provisions, being merely special and local in their nature, are omitted.

A permanent appropriation for payment to certain States of five per cent. of the net proceeds of sales of all public lands within their limits, for the purpose of education, or of making public roads and improvements, in pursuance of certain acts specified, was made by R. S. § 3698, post, § 6789.

The State of Wyoming was permitted to reconvey to the United States cer-
tain lands selected by and certified to said State under the provisions of the act admitting the State into the Union, and to select other lands in lieu thereof, by Act March 31, 1906, c. 1354, 34 Stat. 92.

The State of Montana was permitted to reconvey to the United States certain lands selected as indemnity school land under the provisions of the act admitting the State into the Union, and to select other lands in lieu thereof, by Act April 28, 1906, c. 2068, 34 Stat. 150.

§ 4875. (R. S. § 2379.) Selections and locations of lands granted in last section.

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

Act Sept. 4, 1891, c. 16, § 8, 5 Stat. 455.
See note to R. S. § 2378, ante, § 4874.

§ 4876. (Act Aug. 18, 1894, c. 301, § 1.) Survey of lands granted to certain States.

It shall be lawful for the governors of the States of Washington, Idaho, Montana, North Dakota, South Dakota and Wyoming to apply to the Commissioner of the General Land Office for the survey of any township or townships of public land then remaining unsurveyed in any of the several surveying districts, with a view to satisfy the public land grants made by the several Acts admitting the said States into the Union to the extent of the full quantity of land called for thereby; and upon the application of said governors the Commissioner of the General Land Office shall proceed to immediately notify the Surveyor-General of the application made by the governor of any of the said States of the application made for the withdrawal of said lands, and the Surveyor-General shall proceed to have the survey or surveys so applied for made, as in the cases of surveys of public lands; and the lands that may be found to fall within the limits of such township or townships, as ascertained by the survey, shall be reserved upon the filing of the application for survey from any adverse appropriation by settlement or otherwise except under rights that may be found to exist of prior inception, for a period to extend from such application for survey until the expiration of sixty days from the date of the filing of the township plat of survey in the proper district land office, during which period of sixty days the State may select any of such lands not embraced in any valid adverse claim, for the satisfaction of such grants, with the condition, however, that the governor of the State, within thirty days from the date of such filing of the application for survey, shall cause a notice to be published, which publication shall be continued for thirty days from the first publication, in some newspaper of general circulation in the vicinity of the lands likely to be embraced in such township or townships, giving notice to all parties interested of
§ 4876. THE PUBLIC LANDS (Tit. 32)

the fact of such application for survey and the exclusive right of selection by the State for the aforesaid period of sixty days as herein provided for; and after the expiration of such period of sixty days any lands which may remain unselected by the State, and not otherwise appropriated according to law, shall be subject to disposal under general laws as other public lands. And provided further, That the Commissioner of the General Land Office shall give notice immediately of the reservation of any township or townships to the local land office in which the land is situate of the withdrawal of such township or townships, for the purpose hereinbefore provided: And provided further, That the governors of the several States herein named are authorized to advance money from time to time for the survey of the townships withdrawn at such United States depository as may be designated by the Commissioner of the General Land Office, and the moneys so advanced shall be reimbursable. The foregoing provisions shall be applicable to Utah when admitted as a State into the Union and a governor is duly inaugurated and acting. (28 Stat. 394.)

This was a provision of the sundry civil appropriation act for the fiscal year 1880, cited above.


The States of North Dakota, South Dakota, Montana, Idaho, and Washington shall have a preference right over any person or corporation to select lands subject to entry by said States by the act of Congress approved February twenty-second, eighteen hundred and eighty-nine, for a period of sixty days after lands have been surveyed and duly declared to be subject to selection and entry under the general land laws of the United States. (27 Stat. 592.)

This was a provision of the sundry civil appropriation act for the fiscal year 1894, cited above.

Act Feb. 22, 1889, c. 180, 25 Stat. 676, mentioned in this section, was the act providing for the admission of the States named herein into the Union.

§ 4878. (R. S. § 2485.) Certain lands selected by California confirmed to that State.

All selections of any portion of the public domain, to which no homestead, pre-emption or other right had been acquired by any settler under the laws of the United States, and not being mineral land, nor reserved for naval, military or Indian purposes nor held or claimed under any valid Mexican or Spanish grant, and not included within the limits of any city, town or village or of the county of San Francisco, made prior to the twenty-third day of July, one thousand eight hundred and sixty-six, and theretofore sold to bona-fide purchasers by the State of California are confirmed to the State of California: Provided, however, That said State shall not receive (2018)

Digitized by Google
any greater quantity of land for school or improvement purposes than she is entitled to by law.

Act July 23, 1866, c. 219, § 1, 14 Stat. 218.

§ 4879. (R. S. § 2486.) Where selections are on lands already surveyed.

When selections named in the foregoing section have been made upon lands already surveyed by authority of the United States, the authorities of said States, where the same has not been already done, shall notify the register of the land-office, for the district in which the land is situated, which notice shall be regarded as the date of the State selection; and the said registers of the several land-offices, after investigation and decision, shall, under the instruction of the Commissioner of the General Land-Office, forward all such selections to the General Land-Office, and the Commissioner of the General Land-Office shall certify the same over to the State in the usual manner.


§ 4880. (R. S. § 2487.) Where selections are upon land surveyed only by State authority.

When the State of California has made such selections from the lands not surveyed by the authority of the United States, but which selections have been surveyed by the authority of said State, and the land sold to purchasers in good faith, under the laws of the State, such selections, from said twenty-third of July, eighteen hundred and sixty-six, when marked off and designated in the field, shall have the same force and effect as the pre-emption rights of a settler upon unsurveyed public lands; and if upon a survey of such lands by the United States, the lines of the two surveys shall be found not to agree, the selection shall be so changed as to include those legal subdivisions which nearest conform to the identical land included in the State survey and selection. Upon filing with the register of the proper United States land-office of the township plat, in which any such selection of unsurveyed land is located, the holder of the State title shall be allowed the same time to present and prove up his purchase and claim as is allowed pre-emptors under existing laws—and if found in accordance with the law the land embraced therein shall be certified over to the State by the Commissioner of the General Land-Office.


R. S. § 2489, provided that the local land offices in California should immediately forward to the General Land Offices lists of selections made under this and the two preceding sections, and lists of swamp, etc., lands claimed by the State, for final disposition and determination, which final disposition should be made by the Commissioner of the General Land Office without delay. That section is omitted, as temporary merely, and executed.

§ 4881. (Act March 2, 1901, c. 808.) Representation of Indian claimants in suits to determine right of States to school lands.

In any suit heretofore or hereafter instituted in the Supreme Court of the United States to determine the right of a State to what are commonly known as school lands within any Indian reservation or any Indian cession where an Indian tribe claims any right to or interest in the lands in controversy, or in the disposi-
tion thereof by the United States, the right of such State may be fully tested and determined without making the Indian tribe, or any portion thereof, a party to the suit if the Secretary of the Interior is made a party thereto; and the duty of representing and defending the right or interest of the Indian tribe, or any portion thereof, in the matter shall devolve upon the Attorney-General upon the request of such Secretary. (31 Stat. 950.)

This was an act entitled "An act authorizing the Attorney-General, upon the request of the Secretary of the Interior, to appear in suits brought by States relative to school lands."

CHAPTER TEN B
Grants in Aid of Railroads and Wagon Roads

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes provisions of a general and permanent nature relating to the location, survey, etc., and to the forfeiture of lands granted to States or to corporations in aid of the construction of railroads and wagon roads, principally Act April 21, 1876, c. 72, 19 Stat. 35, Act July 10, 1880, c. 764, 24 Stat. 143, Act March 3, 1887, c. 376, 24 Stat. 556, Act Sept. 30, 1890, c. 1040, 26 Stat. 496, Act March 2, 1899, c. 39, 29 Stat. 42, and Act June 25, 1910, c. 406, 36 Stat. 834, with acts amendatory thereof or supplemental thereto, and other provisions relating to said subject, remaining in force.

Sec. 4882. Cost of survey, etc., of grants to railroads to be paid.
Sec. 4883. Surveyed railroad grant lands taxable notwithstanding lien for cost of surveying, etc.
Sec. 4884. Collection of cost of surveying, etc., railroad grant lands.
Sec. 4885. Right of forfeiture of railroad grants not affected by act.
Sec. 4886. Cost of surveying lands granted to Union Pacific Railroad.
Sec. 4887. Survey of lands within limits of railroad grants; continuing appropriation; reimbursement; reports.
Sec. 4888. Deposits for surveys of lands granted to railroads.
Sec. 4889. Selection by railroads of lands in lieu of lands entered by settlers subsequent to accrual of rights of railroads; title of settlers.
Sec. 4890. Rights of entr'y men on railroad lands whose entries have not been admitted to record.
Sec. 4891. Homestead entries on railroad lands prior to their withdrawal or after their restoration to market confirmed.
Sec. 4892. Homestead entries on abandoned railroad lands.

(2018)
§ 4883. (Act July 10, 1886, c. 764, § 1.) Surveyed railroad grant lands taxable notwithstanding lien for cost of surveying, etc.

No lands granted to any railroad corporation by any act of Congress shall be exempt from taxation by States, Territories, and municipal corporations on account of the lien of the United States upon the same for the costs of surveying, selecting, and conveying the same, or because no patent has been issued therefor; but this provision shall not apply to lands unsurveyed: Provided, That any such land sold for taxes shall be taken by the purchaser subject to the lien for costs of surveying, selecting, and conveying, to be paid in such manner by the purchaser as the Secretary of the Interior may by rule provide and to all liens of the United States, all mortgages of the United States, and all rights of the United States.

(2019)
§ 4883

THE PUBLIC LANDS

(Tit. 32)

States in respect of such lands: Provided further, That this act shall apply only to lands situated opposite to and coterminous with completed portions of said roads, and in organized counties: Provided further, That at any sale of lands under the provisions of this act the United States may become a preferred purchaser, and in such case the lands sold shall be restored to the public domain and disposed of as provided by the laws relating thereto.

(24 Stat. 143.)

This section and the three sections next following were an act entitled "An act to provide for taxation of railroad-grant lands, and for other purposes."

§ 4884. (Act July 10, 1886, c. 764, § 2.) Collection of cost of surveying, etc., railroad grant lands.

If any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such company or for its use and benefit by act of Congress shall for thirty days neglect or refuse to pay any such costs after demand for payment thereof by the Secretary of the Interior, he shall notify the Attorney-General, who shall at once commence proceedings to collect the same. But when any sum shall be collected of such railroad company as costs of surveying, selecting, and conveying any tract of land which shall have been purchased under the provisions of section one hereof, the Secretary of the Interior shall out of such collections reimburse said purchaser, his heirs or assigns, the amount of money paid by him as the costs of such surveying, selecting, and conveying.

(24 Stat. 143.)

§ 4885. (Act July 10, 1886, c. 764, § 3.) Right of forfeiture of railroad grants not affected by act.

This act shall not affect the right of the Government to declare or enforce a forfeiture of any lands so granted; but all the rights of the United States to said lands or to any interest therein shall be and remain as if this act had not passed, except as to the lien mentioned in the first section hereof.

(24 Stat. 143.)

§ 4886. (Act July 10, 1886, c. 764, § 4.) Cost of surveying lands granted to Union Pacific Railroad.

Section twenty-one of chapter two hundred and sixteen, approved July second, eighteen hundred and sixty-four, is hereby so amended as that the costs of surveying, selecting and conveying therein required to be paid shall become due and payable at and on the demand therefore made by the Secretary of the Interior as provided in section two of this act, and nothing in this act shall be construed or taken in any wise to affect or impair the right of Congress at any time hereafter further to alter, amend, or repeal the said act, as in the opinion of Congress, justice or the public welfare may require, or to impair or waive any right or remedy in the premises now existing in favor of the United States. This act shall be subject to alteration, amendment, or repeal.

(24 Stat. 143.)

Act July 2, 1864, c. 216, § 21, 13 Stat. 385, mentioned in this section, provided that before any of the land granted to the Union Pacific Railway Company should be conveyed the cost of surveying, etc., must be paid.

(2020)
§ 4887. (Act March 2, 1895, c. 189, § 1.) Survey of lands within limits of railroad grants; continuing appropriation; reimbursement; reports.

For the survey of the public lands lying within the limits of land grants made by Congress to aid in the construction of railroads, and the selection therein of such lands as are granted therefor, to enable the Secretary of the Interior to carry out the provisions of section one of the Act of March third, eighteen hundred and eighty-seven, entitled "An Act to provide for the adjustment of land grants made by Congress to aid in the construction of railroads, and for the forfeiture of unearned lands, and for other purposes," being chapter three hundred and seventy-six of volume twenty-four of the Statutes at Large, page five hundred and fifty-six, the sum of one hundred thousand dollars is hereby appropriated and made a continuing appropriation for the survey of lands within the limits of railroad land grants, and any money which shall be expended of such appropriation and reimbursed and paid into the Treasury is hereby reappropriated, and said sum shall remain a continuing appropriation, and so often as any part of the same shall, after being expended, be reimbursed by any railroad company as hereinafter provided, the same shall be again available for the purposes aforesaid: Provided, That any portion of said sum expended for surveying such lands shall be reimbursed by the respective companies or parties in interest for whose benefit the lands are granted, according to the provisions of the Act of July fifteenth, eighteen hundred and seventy, chapter two hundred and ninety-two, volume sixteen, pages three hundred and five and three hundred and six, and Act of July thirty-first, eighteen hundred and seventy-six, chapter two hundred and forty-six of volume nineteen, page one hundred and twenty-one of the Statutes at Large, requiring "that before any lands granted to any railroad company shall be conveyed to such company or any persons entitled thereto under any of the Acts incorporating or relating to said company, unless said company is excepted by law from the payment of such cost, there shall first be paid into the Treasury of the United States the cost of surveying, selecting, and conveying the same by the said company or persons in interest": And provided further, That whenever there shall have been reimbursed and paid into the Treasury of the United States, by the respective companies or parties in interest, any part of said appropriation expended for surveys within such grants, there shall be immediately available, out of any money in the Treasury not otherwise appropriated, an amount equal to the amount so reimbursed, and the same shall be available for the survey of the public lands lying within the limits of the railroad land grants made by Congress, until all of said lands shall have been surveyed: Provided, That nothing herein contained shall be construed to prevent the use, within the limits of any railroad land grant made by Congress, of any part of any regular appropriation for surveying the public lands: Provided, That no part of the foregoing money shall be used for any land embraced in any grant to the State of Florida: And provided further, That the provisions of law re-
§ 4887 THE PUBLIC LANDS (Tit. 32)

quiring reimbursements to be made to the United States by railroad corporations claiming such grants, shall apply equally to the successors of such railroad corporations acquiring title to their lands and other property, under decree of foreclosure of any mortgage authorized by Congress. This paragraph shall be in lieu of the provision in the sundry civil appropriation Act approved August eighteenth, eighteen hundred and ninety-four, providing for the survey of such lands, and the Secretary of the Interior shall report to each regular session of Congress what has been done under the foregoing provisions. (28 Stat. 937.)

This was a provision of the sundry civil appropriation act for the fiscal year 1896, cited above.

It superseded a similar provision in the sundry civil appropriation act for the preceding year, Act Aug. 18, 1894, c. 801, § 1, 28 Stat. 395.

Act March 3, 1887, c. 376, mentioned in this provision, is set forth post, §§ 4895–4900.

Act July 15, 1870, c. 292, 16 Stat. 305, also mentioned in this provision, made appropriations for surveying the public lands; and required the survey of lands granted to the Northern Pacific Railroad to be paid for.

Provisions of Act July 31, 1876, a similar requirement of which is quoted in this provision, are set forth ante, § 4882, and the further provisions, relating to the subject, of Act July 10, 1886, c. 764, are also set forth ante, §§ 4883–4886.

§ 4888. (Act Feb. 27, 1899, c. 205.) Deposits for surveys of lands granted to railroads.

When any railroad company claiming a grant of land under any Act of Congress, desiring to secure the survey of any unsurveyed lands within the limits of its grant, shall file an application therefor in writing with the surveyor-general of the State in which the lands sought to be surveyed are situated, and deposit in a proper United States depository to the credit of the United States a sum sufficient to pay for such survey and for the examination thereof pursuant to law and the rules and regulations of the Department of the Interior under the direction of the Commissioner of the General Land Office, it shall thereupon be the duty of the Commissioner of the General Land Office, or the Director of the Geological Survey, as the case may be, to cause said lands to be surveyed.

For any deposits made by any railroad company hereunder, certificates shall be issued, which may be used by such railroad company, its successors or assigns, to the same extent as cash is now allowed in payment of entries of public lands under existing law and regulations for any public lands of the United States in the States where the surveys were made, or for any survey or office fees due the United States from such railroad company on account of surveys of lands within its grant. The Secretary of the Interior shall provide such rules and regulations as may be necessary for carrying out the foregoing provisions. (30 Stat. 892.)

This was an act entitled "An act to authorize the Commissioner of the General Land Office to cause public lands to be surveyed in certain cases."

Provisions relating to the payment and collection of the cost of surveying lands granted to railroads of Act July 31, 1876, c. 245, § 1, and Act July 10, 1886, c. 764, are set forth ante, §§ 4882–4886.

(2022)
§ 4889. (Act June 22, 1874, c. 400.) Selection by railroads of lands in lieu of lands entered by settlers subsequent to accrual of rights of railroads; title of settlers.

In the adjustment of all railroad land grants, whether made directly to any railroad company or to any State for railroad purposes, if any of the lands granted be found in the possession of an actual settler whose entry or filing has been allowed under the [pre-emption or] homestead laws of the United States subsequent to the time at which, by the decision of the land-office, the right of said road was declared to have attached to such lands, the grantees, upon a proper relinquishment of the lands so entered or filed for, shall be entitled to select an equal quantity of other lands in lieu thereof from any of the public lands not mineral and within the limits of the grant not otherwise appropriated at the date of selection, to which they shall receive title the same as though originally granted. And any such entries or filings thus relieved from conflict may be perfected into complete title as if such lands had not been granted: Provided, That nothing herein contained shall in any manner be so construed as to enlarge or extend any grant to any such railroad or to extend to lands reserved in any land grant made for railroad purposes: And provided further, That this act shall not be construed so as in any manner to confirm or legalize any decision or ruling of the Interior Department under which lands have been certified to any railroad company when such lands have been entered by a [pre-emption or] homestead settler after the location of the line of the road and prior to the notice to the local land-office of the withdrawal of such lands from market. (18 Stat. 194.)

This was an act entitled "An act for the relief of settlers on railroad lands."
The words "pre-emption or," inclosed in brackets in this section, were superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See note to chapter 4 of this Title.
The provisions of this act were extended to all persons entitled to the right of homestead or pre-emption under the laws of the United States who have resided upon and improved for five years lands granted to any railroad company whose entries or filings have not been admitted to record, by Act Aug. 26, 1890, c. 818, post, § 4890.
The provisions of this act and all acts amendatory thereof and supplementary thereto apply to grants in aid of the construction of wagon roads, by Act July 1, 1902, c. 1386, post, § 4904.

Any homestead settler whose entry within the limits of the grant to the State of Alabama in aid of the construction of the Mobile & Girard Railroad, by Act June 3, 1896, c. 42, 39 Stat. 18, has been canceled because of a superior claim to the land through purchase from the railroad company, is accorded the privilege of transferring his claim to other public land subject to homestead entry, or, should he elect to retain the tract embraced in his homestead entry, the holder of the patented title through the railroad grant may relinquish or reconvey the land included in such homestead entry, and thereupon shall be entitled to select and receive patent for an equal quantity of public lands subject to homestead entry, by Act Feb. 24, 1905, c. 770, 33 Stat. 813.

§ 4890. (Act Aug. 29, 1890, c. 819.) Rights of entrymen on railroad lands whose entries have not been admitted to record.
The privileges granted by the aforesaid act approved June twen-
§ 4890  THE PUBLIC LANDS (Tit. 32)

ty-second, eighteen hundred and seventy-four, are hereby extended (subject to the provisos, limitations, and restrictions thereof) to all persons entitled to the right of homestead [or pre-emption] under the laws of the United States, who have resided upon and improved for five years lands granted to any railroad company, but whose entries or filings have not for any cause been admitted to record. (26 Stat. 369.)

This was an act entitled "An act to amend an act entitled 'An act for the relief of settlers on railroad lands,' approved June twenty-second eighteen hundred and seventy-four."

The words "or pre-emption," inclosed in brackets in this section, were superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See note to chapter 4 of this Title.

Act June 22, 1874, c. 400, mentioned in this act, is set forth ante, § 4890.

§ 4891. (Act April 21, 1876, c. 72, § 1.) Homestead entries on railroad lands prior to their withdrawal or after their restoration to market confirmed.

All [pre-emption and] homestead entries, or entries in compliance with any law of the United States, of the public lands, made in good faith, by actual settlers, upon tracts of land of not more than one hundred and sixty acres each, within the limits of any land-grant, prior to the time when notice of the withdrawal of the lands embraced in such grant was received at the local land-office of the district in which such lands are situated, or after their restoration to market by order of the General Land-Office, and where the [pre-emption and] homestead laws have been complied with, and proper proofs thereof have been made by the parties holding such tracts or parcels, they shall be confirmed, and patents for the same shall issue to the parties entitled thereto. (19 Stat. 35.)

This section and the two sections next following were an act entitled "An act to confirm pre-emption and homestead entries of public lands within the limits of railroad-grants in cases where such entries have been made under the regulations of the land department."

The words "pre-emption and," inclosed in brackets in this section, were superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See note to chapter 4 of this Title.

§ 4892. (Act April 21, 1876, c. 72, § 2.) Homestead entries on abandoned railroad lands.

When at the time of such withdrawal as aforesaid valid [pre-emption or] homestead claims existed upon any lands within the limits of any such grants which afterward were abandoned, and, under the decisions and rulings of the Land Department, were reentered by [pre-emption or] homestead claimants who have complied with the laws governing [pre-emption or] homestead entries, and shall make the proper proofs required under such laws, such entries shall be deemed valid, and patents shall issue therefor to the person entitled thereto. (19 Stat. 35.)

The words "pre-emption or," inclosed in brackets in this section, were superseded by the repeal of the pre-emption laws, by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See notes to chapter 4 of this Title.

(2024)
§ 4893. (Act April 21, 1876, c. 72, § 3.) Homestead entries on railroad lands subsequent to expiration of grant.

All such [pre-emption and] homestead entries which may have been made by permission of the Land Department, or in pursuance of the rules and instructions thereof, within the limits of any land-grant at a time subsequent to expiration of such grant, shall be deemed valid, and a compliance with the laws and the making of the proof required shall entitle the holder of such claim to a patent therefore. (19 Stat. 36.)

The words "pre-emption and," inclosed in brackets in this section, were superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097. See notes to chapter 4 of this Title.


All persons who shall have settled and made valuable and permanent improvements upon any odd numbered section of land within any railroad withdrawal in good faith and with the permission or license of the railroad company for whose benefit the same shall have been made, and with the expectation of purchasing of such company the land so settled upon, which land so settled upon and improved, may, for any cause, be restored to the public domain, and who, at the time of such restoration, may not be entitled to enter and acquire title to such land under the [pre-emption] homestead[, or timber-culture] acts of the United States, shall be permitted, at any time within three months after such restoration, and under such rules and regulations as the Commissioner of the General Land Office may prescribe, to purchase not to exceed one hundred and sixty acres in extent of the same by legal subdivisions, at the price of two dollars and fifty cents per acre, and to receive patents therefor. (21 Stat. 315.)

This was an act entitled "An act for the relief of certain settlers on restored railroad lands."

The word "pre-emption," inclosed in brackets in this section, was superseded by the repeal of the pre-emption laws by Act March 3, 1891, c. 561, § 4, 26 Stat. 1097; and the words "or timber-culture," also inclosed in brackets in this section, were superseded by the repeal of the timber-culture laws by Act March 3, 1891, c. 561, § 1, post, § 5116.

§ 4895. (Act March 3, 1887, c. 376, § 1.) Adjustment of land grants to railroads by Secretary of Interior.

That the Secretary of the Interior be, and is hereby authorized and directed to immediately adjust, in accordance with the decisions of the Supreme Court, each of the railroad land grants made by Congress to aid in the construction of railroads and heretofore unadjusted. (24 Stat. 556.)

This was the first section of an act entitled "An act to provide for the adjustment of land grants made by Congress to aid in the construction of railroads and for the forfeiture of unearned lands, and for other purposes."

Sections 2-5 and 7 of the act are set forth post, §§ 4896-4900.

Section 6 of the act gave purchasers of lands granted to aid in the construction of railroads, at sales of the lands for State and county taxes thereon as the property of any railroad company, a prior right to purchase such lands.
from the United States, to continue one year from the approval of this act. It is omitted, as temporary merely.

To enable the Secretary of the Interior to complete the adjustment of land grants to aid in the construction of railroads, any railroad corporation required by law to pay the costs of surveying, etc., unsurveyed lands granted to it, was required to deposit a sum sufficient to pay such cost, to be disbursed for the surveying, etc., and conveyance of such lands, by Act June 25, 1910, c. 406, post, §§ 4914–4917.

§ 4896. (Act March 3, 1887, c. 376, § 2.) Cancellation of patents erroneously issued; reconveyance to United States; suits to cancel patents.

If it shall appear, upon the completion of such adjustments respectfully, or sooner, that lands have been, from any cause, heretofore erroneously certified or patented, by the United States, to or for the use or benefit of any company claiming by, through, or under grant from the United States, to aid in the construction of a railroad, it shall be the duty of the Secretary of the Interior to thereupon demand from such company a relinquishment or reconveyance to the United States of all such lands, whether within granted or indemnity limits; and if such company shall neglect or fail to so reconvey such lands to the United States within ninety days after the aforesaid demand shall have been made, it shall thereupon be the duty of the Attorney-General to commence and prosecute in the proper courts the necessary proceedings to cancel all patents, certification, or other evidence of title heretofore issued for such lands, and to restore the title thereof to the United States. (24 Stat. 556.)

The word "respectfully," in the first sentence of this section, was used, apparently, for "respectively."

§ 4897. (Act March 3, 1887, c. 376, § 3.) Erroneous cancellation of entries of bona fide settlers corrected.

If, in the adjustment of said grants, it shall appear that the homestead or pre-emption entry of any bona fide settler has been erroneously canceled on account of any railroad grant or the withdrawal of public lands from market, such settler upon application shall be reinstated in all his rights and allowed to perfect his entry by complying with the public land laws: Provided, That he has not located another claim or made an entry in lieu of the one so erroneously canceled: And provided also, That he did not voluntarily abandon said original entry: And provided further, That if any of said settlers do not renew their application to be reinstated within a reasonable time, to be fixed by the Secretary of the Interior, then all such unclaimed lands shall be disposed of under the public land laws, with priority of right given to bona fide purchasers of said unclaimed lands, if any, and if there be no such purchasers, then to bona fide settlers residing thereon. (24 Stat. 557.)

§ 4898. (Act March 3, 1887, c. 376, § 4, as amended, Act Feb. 12, 1896, c. 18.) Patents to purchasers of lands from railroads; payment to United States by railroads of purchase money; suits for purchase money.

As to all lands, except those mentioned in the foregoing section, (2026)
which have been so erroneously certified or patented as aforesaid, and which have been sold by the grantee company to citizens of the United States, or to persons who have declared their intention to become such citizens, the person or persons so purchasing in good faith, his heirs or assigns, shall be entitled to the land so purchased, upon making proof of the fact of such purchase at the proper land-office, within such time and under such rules as may be prescribed by the Secretary of the Interior, after the grants respectively shall have been adjusted; and patents of the United States shall issue therefor, and shall relate back to the date of the original certification or patenting, and the Secretary of the Interior, on behalf of the United States, shall demand payment from the company which has so disposed of such lands of an amount equal to the Government price of similar lands; and in case of neglect or refusal of such company to make payment as hereafter specified, within ninety days after the demand shall have been made, the Attorney-General shall cause suit or suits to be brought against such company for the said amount: Provided, That nothing in this act shall prevent any purchaser of lands erroneously withdrawn, certified, or patented as aforesaid from recovering the purchase-money therefor from the grantee company, less the amount paid to the United States by such company as by this act required: And provided, That a mortgage or pledge of said lands by the company shall not be considered as a sale for the purpose of this act, nor shall this act be construed as a declaration of forfeiture of any portion of any land-grant for conditions broken, or as authorizing an entry for the same, or as a waiver of any rights that the United States may have on account of any breach of said conditions. Provided further, That where such purchasers, their heirs or assigns, have paid only a portion of the purchase price to the company, which is less than the Government price of similar lands, they shall be required, before the delivery of patent for their lands, to pay to the Government a sum equal to the difference between the portion of the purchase price so paid and the Government price, and in such case the amount demanded from the company shall be the amount paid to it by such purchaser. (24 Stat. 557, 29 Stat. 6.)

This section was amended by Act Feb. 12, 1886, c. 18, cited above, by adding, at the end of the section, as originally enacted, the last proviso, as set forth here.

§ 4899. (Act March 3, 1887, c. 376, § 5.) Rights of purchasers from railroads of coterminous lands not within railroad grants.

Where any said company shall have sold to citizens of the United States, or to persons who have declared their intention to become such citizens, as a part of its grant, lands not conveyed to or for the use of such company, said lands being the numbered sections prescribed in the grant, and being coterminous with the constructed parts of said road, and where the lands so sold are for any reason excepted from the operation of the grant to said company, it shall be lawful for the bona fide purchaser thereof from said company to make payment to the United States for said lands at the
ordinary Government price for like lands, and thereupon patents
shall issue therefor to the said bona fide purchaser, his heirs or as-
signs: Provided, That all lands shall be excepted from the provi-
sions of this section which at the date of such sales were in the bona
fide occupation of adverse claimants under the pre-emption or home-
stead laws of the United States, and whose claims and occupation
have not since been voluntarily abandoned, as to which excepted
lands the said pre-emption and homestead claimants shall be per-
mitted to perfect their proofs and entries and receive patents there-
for: Provided further, That this section shall not apply to lands
settled upon subsequent to the first day of December, eighteen hun-
dred and eighty-two, by persons claiming to enter the same under
the settlement laws of the United States, as to which lands the par-
ties claiming the same as aforesaid shall be entitled to prove up and
enter as in other like cases. (24 Stat. 557.)

§ 4900. (Act March 3, 1887, c. 376, § 7.) Limitation of quantity
of lands to be conveyed.

No more lands shall be certified or conveyed to any State or to
any corporation or individual, for the benefit of either of the com-
panies herein mentioned, where it shall appear to the Secretary of
the Interior that such transfers may create an excess over the
quantity of lands to which such State corporation or individual
would be rightfully entitled. (24 Stat. 558.)

§ 4901. (Act March 2, 1896, c. 39, § 1.) Suits to cancel patents to
lands erroneously issued under railroad or wagon road grants;
limitations.

Suits by the United States to vacate and annul any patent to
lands heretofore erroneously issued under a railroad or wagon road
grant shall only be brought within five years from the passage of
this Act, and suits to vacate and annul patents hereafter issued
shall only be brought within six years after the date of the issu-
ance of such patents, and the limitation of section eight of chapter
five hundred and sixty-one of the acts of the second session of the
Fifty-first Congress and amendments thereto is extended accord-
ingly as to the patents herein referred to. But no patent to any
lands held by a bona fide purchaser shall be vacated or annulled,
but the right and title of such purchaser is hereby confirmed:
Provided, That no suit shall be brought or maintained, nor shall re-
cover be had for lands or the value thereof, that were certified or
patented in lieu of other lands covered by a grant which were lost
or relinquished by the grantee in consequence of the failure of the
Government or its officers to withdraw the same from sale or entry.
(29 Stat. 42.)

This section and the two sections next following were an act entitled "An
act to provide for the extension of the time within which suits may be brought
to vacate and annul land patents, and for other purposes."
Section 8 of chapter 561 of the Acts of the Fifty-first Congress, mentioned
in this section, was Act March 3, 1891, c. 561, § 8, post, § 5114.
(2028)
§ 4902. (Act March 2, 1896, c. 39, § 2.) Claims of bona fide purchasers; establishment of rights.

If any person claiming to be a bona fide purchaser of any lands erroneously patented or certified shall present his claim to the Secretary of the Interior prior to the institution of a suit to cancel a patent or certification, and if it shall appear that he is a bona fide purchaser, the Secretary of the Interior shall request that suit be brought in such case against the patentee, or the corporation, company, person, or association of persons for whose benefit the certification was made, for the value of said land, which in no case shall be more than the minimum Government price thereof, and the title of such claimant shall stand confirmed. An adverse decision by the Secretary of the Interior on the bona fides of such claimant shall not be conclusive of his rights, and if such claimant, or one claiming to be a bona fide purchaser, but who has not submitted his claim to the Secretary of the Interior, is made a party to such suit, and if found by the court to be a bona fide purchaser, the court shall decree a confirmation of the title, and shall render a decree in behalf of the United States against the patentee, corporation, company, person, or association of persons for whose benefit the certification was made for the value of the land as hereinbefore provided. Any bona fide purchaser of lands patented or certified to a railroad company, and who is not made a party to such suit, and who has not submitted his claim to the Secretary of the Interior, may establish his right as such bona fide purchaser in any United States court having jurisdiction of the subject-matter, or at his option, as prescribed in sections three and four of chapter three hundred and seventy-six of the Acts of the second session of the Forty-ninth Congress. (29 Stat. 43.)

Sections 3 and 4, of chapter 376, of the Acts of the Second Session of the Forty-ninth Congress, mentioned in this section, are part of Act March 3, 1887, c. 876, §§ 3, 4, ante, §§ 4897, 4898.

§ 4903. (Act March 2, 1896, c. 39, § 3.) Claims of bona fide purchasers; investigation before suit.

If at any time prior to the institution of suit by the Attorney-General to cancel any patent or certification of lands erroneously patented or certified a claim or statement is presented to the Secretary of the Interior by or on behalf of any person or persons, corporation or corporations, claiming that such person or persons, corporation or corporations, is a bona fide purchaser or are bona fide purchasers of any patented or certified land by deed or contract, or otherwise, from or through the original patentee or corporation to which patent or certification was issued, no suit or action shall be brought to cancel or annul the patent or certification for said land until such claim is investigated in said Department of the Interior; and if it shall appear that such person or corporation is a bona fide purchaser as aforesaid, or that such persons or corporations are such bona fide purchasers, then no such suit shall be instituted and the title of such claimant or claimants shall stand confirmed; but the Secretary of the Interior shall request that suit be brought in such (2029)
case against the patentee, or the corporation, company, person, or
association of persons for whose benefit the patent was issued or
certification was made for the value of the land as hereinbefore spec-
ified. (29 Stat. 43.)

§ 4904. (Act July 1, 1902, c. 1386.) Provisions for relief of set-
tlers on lands granted in aid of railroads, applicable to grants
in aid of wagon roads.

The provision of the Act of June twenty-second, eighteen hun-
dred and seventy-four, entitled “An Act for the relief of settlers
on railroad lands,” and all Acts amendatory thereof or supple-
mentary thereto, including the Act approved March third, eighteen
hundred and eighty-seven, entitled “An Act to provide for the ad-
justment of land grants made by Congress to aid in the construc-
tion of railroads and for the forfeiture of unearned lands, and for
other purposes,” as modified or supplemented by the Act approved
March second, eighteen hundred and ninety-six, entitled “An Act
to provide for the extension of the time within which suits may
be brought to vacate and annul land patents, and for other pur-
poses,” shall apply to grants of land in aid of the construction of
wagon roads. (32 Stat. 733.)

This was an act entitled “An act for the relief of settlers on lands grant-
ed in aid of the construction of wagon roads.”

Act July 22, 1874, c. 400, and other Acts amendatory thereof or supplemen-
tary thereto, including Act March 3, 1887, c. 376, and Act March 2, 1888,
c. 59, mentioned in this act, are set forth ante, §§ 4880–4903.

§ 4905. (Act Sept. 29, 1890, c. 1040, § 1.) Forfeiture of unearned
railroad land grants; restoration to public domain.

There is hereby forfeited to the United States, and the United
States hereby rescues the title thereto, all lands heretofore granted
to any State or to any corporation to aid in the construction of a
railroad opposite to and coterminus with the portion of any such
railroad not now completed, and in operation, for the construction
or benefit of which such lands were granted; and all such lands
are declared to be a part of the public domain; Provided, That this
act shall not be construed as forfeiting the right of way or station
grounds of any railroad company heretofore granted. (26 Stat.
496.)

This was the first section of an act entitled “An act to forfeit certain lands
heretofore granted for the purpose of aiding in the construction of railroads,
and for other purposes.”

Sections 2 and 3 of the act are set forth post, §§ 4906, 4908.

Section 4 of the act repealed certain special grants to Iowa and Minnesota
for railroad purposes, and sections 5, 7, and 8 related to grants to particular
railroads. These sections are omitted, as special only.

§ 4906. (Act Sept. 29, 1890, c. 1040, § 2.) Homestead entries on
forgotten lands; preference rights.

All persons who, at the date of the passage of this act, are ac-
tual settlers in good faith on any of the lands hereby forfeited and
are otherwise qualified, on making due claim on said lands under
the homestead law within six months after the passage of this act,
shall be entitled to a preference right to enter the same under the
provisions of the homestead law and this act, and shall be regarded as such actual settlers from the date of actual settlement or occupation; and any person who has not heretofore had the benefit of the homestead or pre-emption law, or who has failed from any cause to perfect the title to a tract of land heretofore entered by him under either of said laws, may make a second homestead entry under the provisions of this act. The Secretary of the Interior shall make such rules as will secure to such actual settlers these rights. (26 Stat. 496.)

The time within which the preference right granted by this section might be exercised was extended so that the time began to run from the date of the promulgation by the Commissioner of the General Land Office of instructions to the local land offices for their direction in the disposition of the lands, by Act Feb. 18, 1891, c. 244, post, § 4907.

§ 4907. (Act Feb. 18, 1891, c. 244.) Extension of time for entries on or purchases of forfeited lands.

An act entitled "An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes," approved September twenty-ninth, eighteen hundred and ninety, be, and the same is hereby, amended so that the period within which settlers, purchasers, and others under the provisions of said act may make application to purchase lands forfeited thereby or to make or move to perfect any homestead entries which are preserved or authorized under said act when such period begins to run from the passage of the act shall begin to run from the date of the promulgation by the Commissioner of the General Land Office of the instructions to the officers of the local land offices, for their direction in the disposition of said lands:

Provided, That nothing herein shall extend any time or enlarge any rights given by said act to any railroad company. (26 Stat. 764.)

This was an act entitled "An act to amend an act entitled an act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes."

This section related to the provisions of Act Sept. 29, 1890, c. 1040, § 2, ante, § 4906. See, also, Act June 25, 1892, c. 133, Act Jan. 31, 1893, c. 54, Act Dec. 12, 1893, c. 1, as amended by Act Jan. 23, 1896, c. 8, and Act Feb. 18, 1897, c. 250, post, §§ 4909-4912.

§ 4908. (Act Sept. 29, 1890, c. 1040, § 3.) Repurchase by bona fide purchasers from grantees; removal of crops and improvements by settlers.

In all cases where persons being citizens of the United States, or who have declared their intentions to become such, in accordance with the naturalization laws of the United States, are in possession of any of the lands affected by any such grant and hereby resumed by and restored to the United States, under deed, written contract with, or license from, the State or corporation to which such grant was made, or its assignees, executed prior to January first, eighteen hundred and eighty-eight, or where persons may have settled said lands with bona fide intent to secure title thereto by purchase from the State or corporation when earned by compliance with the conditions or requirements of the granting acts of Congress (2031)
they shall be entitled to purchase the same from the United States, in quantities not exceeding three hundred and twenty acres to any one such person, at the rate of one dollar and twenty-five cents per acre, at any time within two years from the passage of this act, and on making said payments to receive patents therefor, and where any such person in actual possession of any such lands and having improved the same prior to the first day of January, eighteen hundred and ninety, under deed, written contract, or license as aforesaid, or his assignor, has made partial or full payments to said railroad company prior to said date, on account of the purchase price of said lands from it, on proof of the amount of such payments he shall be entitled to have the same, to the extent and amount of one dollar and twenty-five cents per acre, if so much has been paid, and not more, credited to him on account of and as part of the purchase price herein provided to be paid the United States for said lands, or such persons may elect to abandon their purchases and make claim on said lands under the homestead law and as provided in the preceding section of this act: Provided, That in all cases where parties, persons, or corporations, with the permission of such State or corporation, or its assignees, are in the possession of and have made improvements upon any of the lands hereby resumed and restored, and are not entitled to enter the same under the provisions of this act, such parties, persons, or corporations shall have six months in which to remove any growing crop, and within which time they shall also be entitled to remove all buildings and other movable improvements from said lands: Provided further, That the provisions of this section shall not apply to any lands situate in the State of Iowa on which any person in good faith has made or asserted the right to make a pre-emption or homestead settlement: And provided further, That nothing in this act contained shall be construed as limiting the rights granted to purchasers or settlers by "An act to provide for the adjustment of land grants made by Congress to aid in the construction of railroads and for the forfeiture of unearned lands, and for other purposes," approved March third, eighteen hundred and eighty-seven, or as repealing, altering, or amending said act, nor as in any manner affecting any cause of action existing in favor of any purchaser against his grantor for breach of any covenants of title. (26 Stat. 496.)

See note to section 1 of this act, ante, § 4906.

The time within which the right to purchase granted by this section must be exercised was extended by Act Feb. 18, 1891, c. 244, ante, § 4907, and Act June 25, 1892, c. 133, Act Jan. 31, 1893, c. 54, Act Dec. 12, 1893, as amended by Act Jan. 23, 1896, c. 8, and Act Feb. 18, 1897, c. 250, post, §§ 4909–4912.

§ 4909. (Act June 25, 1892, c. 133.) Extension of time for purchases of forfeited lands.

That section three of an act entitled "An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes," be, and the same is, amended so as to extend the time within which persons actually residing upon lands forfeited by said act shall be permitted to purchase the same in the quantities and upon the terms provided in
said section at any time within three years from the passage of said act. (27 Stat. 59.)

This act related to the provisions of Act Sept. 29, 1890, c. 1040, § 3, ante, § 4906. See, also, Act Jan. 31, 1893, c. 54, Act Dec. 12, 1893, c. 1, as amended by Act Jan. 23, 1896, c. 8, and Act Feb. 18, 1897, c. 250, post, §§ 4910–4912.

§ 4910. (Act Jan. 31, 1893, c. 54.) Extension of time for purchases of forfeited lands.

That section three of an act entitled “An act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes,” be, and the same is, amended so as to extend the time within which persons entitled to purchase lands forfeited by said act upon the line of the Northern Pacific Railroad Company between Wallula, Washington, and Portland, Oregon, shall be permitted to purchase the same in the quantities and upon the terms provided in said section to January first, eighteen hundred and ninety-four. (27 Stat. 427.)

This act relates to the provisions of Act Sept. 29, 1890, c. 1040, § 3, ante, § 4906. See, also, Act June 25, 1892, c. 133, ante, § 4906, and Act Dec. 12, 1893, c. 1, as amended by Act Jan. 23, 1896, c. 8, and Act Feb. 15, 1897, c. 250, post, §§ 4911, 4912.


That section three of an Act entitled “An Act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes,” approved September twenty-ninth, eighteen hundred and ninety, and the several Acts amendatory thereof, be, and the same is, amended so as to extend the time within which persons entitled to purchase lands forfeited by said Act shall be permitted to purchase the same, in the quantities and upon the terms provided in said section, at any time prior to January first, eighteen hundred and ninety-seven: Provided, That actual residence upon the lands by persons claiming the right to purchase the same shall not be required where such lands have been fenced, cultivated, or otherwise improved by such claimants, and such persons shall be permitted to purchase two or more tracts of such lands by legal subdivisions, whether contiguous or not, but not exceeding three hundred and twenty acres in the aggregate. (28 Stat. 15. 29 Stat. 4.)

This act was amended by Act Jan. 23, 1896, c. 8, cited above, by omitting the proviso at the end of the original act, which was as follows:

“Provided, that nothing herein contained shall be so construed as to interfere with any adverse claim that may have attached to the lands or any part thereof,” and by inserting instead thereof the proviso as set forth here.

The act related to the provisions of Act Sept. 29, 1890, c. 1040, § 3, ante, § 4906. See, also, Act June 25, 1892, c. 133, and Act Jan. 31, 1893, c. 54, ante, §§ 4906, 4910, and Act Feb. 18, 1897, c. 250, post, § 4912.

§ 4912. (Act Feb. 18, 1897, c. 250.) Extension of time for purchases of forfeited lands.

That section three of an Act entitled “An Act to forfeit certain lands heretofore granted for the purpose of aiding in the construction of railroads, and for other purposes,” approved September
twenty-ninth, eighteen hundred and ninety, and the several acts
amendatory thereof, be, and the same is, amended so as to extend
the time within which persons entitled to purchase lands forfeited
by said Act shall be permitted to purchase the same, in the quan-
tities and upon the terms provided in said section and the amend-
ments thereto, at any time prior to January first, eighteen hun-
dred and ninety-nine: Provided, That nothing herein contained
shall be so construed as to interfere with any adverse claim that
may have attached to the lands or any part thereof. (29 Stat.
535.)

Act Sept. 29, 1890, c. 1040, § 3, amended by this section, is set forth ante,
§ 4908.
See, also, Act June 25, 1892, c. 133, Act Jan. 31, 1883, c. 54, and Act Dec.
12, 1883, c. 1, as amended by Act Jan. 23, 1896, c. 8, ante, §§ 4909–4911.

§ 4913. (Act Sept. 29, 1890, c. 1040, § 6.) Rights of original grantees
     to forfeited lands.

No lands declared forfeited to the United States by this act
shall by reason of such forfeiture inure to the benefit of any State
or corporation to which lands may have been granted by Congress,
except as herein otherwise provided; nor shall this act be con-
strued to enlarge the area of land originally covered by any such
grant, or to confer any right upon any State, corporation or person
to lands which were excepted from such grant. Nor shall the moiety
of the lands granted to any railroad company on account of a main
and a branch line appertaining to an incomplete road, and hereby for-
feited, within the conflicting limits of the grants for such main and
branch lines, when but one of such lines has been completed, inure
by virtue of the forfeiture hereby declared, to the benefit of the com-
pleted line. (26 Stat. 498.)

See note to section 1 of this act, ante, § 4906.

§ 4914. (Act June 25, 1910, c. 406, § 1.) Deposits by railroad com-
     panies for costs of surveying, etc., and conveying unsurveyed
     lands granted to them; disbursement of deposits; repayment
     of excess.

To enable the Secretary of the Interior to complete the adjust-
ment of land grants made by Congress to aid in the construction
of railroads, and to subject the lands granted to taxation by States,
Territories, and municipal authorities, any railroad corporation
required by law to pay the costs of surveying, selecting, or con-
vveying any lands granted to such company or corporation, or for
its use and benefit, by any Act of Congress, shall be, and is hereby,
required, within ninety days from demand by the Secretary of the In-
terior, to deposit in a proper United States depository to the credit of
the United States a sum sufficient to pay the cost of surveying, select-
ing, and conveying any of the unsurveyed lands granted to such com-
pany, or for its use and benefit, under any act of Congress: Provided
further, That the Secretary of the Interior shall determine and specify
in the notice or demand to such company the amount of the required
deposit, and may, in his discretion, demand a sum sufficient to cover
the cost of the survey, selection, and conveyance of the entire area
(2034)
granted to any company, or for its use and benefit, then unsurveyed, or for such townships or fractional townships as he may prescribe and designate in the notice or demand to such company, as aforesaid: And provided further, That the amount deposited shall, subject to the rules and regulations of the Department of the Interior, under the direction of the Commissioner of the General Land Office, be disbursed for the surveying, including office and field work, selection, and conveyance of the lands granted and designated in the notice of the Secretary of the Interior, as aforesaid: And provided further, That in the event the money deposited by any railroad corporation under the provisions of this act shall exceed the cost of said surveys, the said excess thereof shall be repaid to the corporations so depositing the same, or to its assigns. (36 Stat. 834.)

This section and the three sections next following were an act entitled "An act making an appropriation for the survey of public lands lying within the limits of land grants, to provide for the forfeiture to the United States of unsurveyed land grants to railroads, and for other purposes."

§ 4915. (Act June 25, 1910, c. 406, § 2.) Forfeiture of grant on failure to make deposit.

If any railroad corporation required by law to pay the costs of surveying, selecting, or conveying any lands granted to such corporation, or for its use and benefit, by any Act of Congress, shall, for ninety days from notice or demand by the Secretary of the Interior, as provided in this Act, neglect or refuse to deposit an amount sufficient to meet the expense of surveying, selecting, and conveying the unsurveyed lands granted to such company, or for its use and benefit, by any Act of Congress, and designated in the notice or demand by the Secretary of the Interior, as aforesaid, the rights, title, and interests of such company, and all those claiming by, through, or under it, in and to the unsurveyed lands designated in the notice of the Secretary, as aforesaid, shall cease and forfeit to the United States; and the Secretary of the Interior shall notify the Attorney-General, who shall at once commence proceedings to declare the forfeiture and to restore the lands forfeited to the public domain. (36 Stat. 834.)

§ 4916. (Act June 25, 1910, c. 406, § 3.) Right to extend public surveys over lands granted, and other rights of United States, not affected by act; granted lands surveyed subject to taxation by State, etc.

This Act shall not affect the right of the Secretary of the Interior to cause the public surveys to be extended over any lands granted to any railroad or corporation by any Act of Congress in the manner now otherwise provided by law, nor shall any claim, right, interest, or demand of the Government of the United States be waived or annulled by the provisions hereof: Provided, That all granted lands surveyed under the provisions of this Act shall be subject to taxation by States, Territories, and municipal authorities, and the right of the Government to reimburse itself for the survey, selection, and conveyance of such lands otherwise provided by law shall remain in full force and effect. (36 Stat. 834.)

(2035)

The Secretary of the Interior shall prescribe such rules and regulations as will be necessary to the carrying out of the foregoing provisions. (36 Stat. 835.)

Those persons who, after August 15, 1887, and before January 1, 1890, had settled upon, improved, and made final proof under the homestead and pre-emption laws, for lands within the "second indemnity belt" of the Northern Pacific Railroad land grant in Minnesota, or their heirs, were entitled to transfer their entries from said tracts to any other vacant public land, subject to entry under the homestead and pre-emption laws, as they might select, and receive final certificates and receipts therefor in lieu of the entries made in said "second indemnity belt," by Act Oct. 1, 1890, c. 1258, § 1, 26 Stat. 647, provided the transfers were made within twelve months from the passage of the act. By section 2 of said act, similar transfers could be made within one year from the passage of the act by persons possessing the requisite qualifications under the pre-emption or homestead laws, who in good faith settled upon and improved lands in said belt, having made final entry of the same, and who, for any reason, other than voluntary abandonment, failed to make proof thereon. In making proof upon the tract to which the transfer was made, credit was to be given for the period of bona fide residence and amount of improvements upon the claims in said belt, and no final entry could be permitted, except upon proof of continuous residence upon the land, the subject of the transfer, for a period of not less than three months prior thereto. Payments for the lands finally selected were to be made under the existing laws. By a subsequent act (Act June 3, 1896, c. 316, 29 Stat. 245), those persons, their heirs or legal representatives, who between said dates settled upon and made final proof and entry for lands within said belt, and whose entries had been canceled without their fault, were entitled to make final homestead entry, and receive patent therefor, of a quantity of any of the unappropriated lands of the United States, subject to homestead entry, equal in acreage to the land entered by them in said belt, without being required to make any settlement or improvement upon, or cultivation of, said land so entered prior to said entry; and persons who had, within said time, for a space of six months, settled upon, cultivated, or improved any of said lands, with a view of entering the same under the homestead or pre-emption laws, and who were not permitted to make such entries, were entitled to enter, under the homestead laws of the United States, a quantity of the unappropriated public lands of the United States, subject to homestead entry, equal in amount to the lands settled upon by them; and said persons were, when making final proof and entry upon said lands, to receive credit for the settlement, improvement, and cultivation made by them upon lands in said belt; and all laws in force in 1889, governing the commutation of homestead entries, were made applicable to the commutation of said entries. Said entries might be made on certain Chippewa Indian lands. The homestead rights thus conferred were not capable of assignment, and no conveyance, sale, or transfer of said entries was valid if made prior to the issuance of patent therefor. By a still later act (Act July 1, 1898, c. 546, § 1, 30 Stat. 620-622), the Northern Pacific Railroad was entitled, where, prior to January 1, 1898, the whole or any part of an odd-numbered section in either the granted or the indemnity limits of the land grant to said railroad, to which the right of the grantee or its lawful successor was claimed to have attached by definite location or selection, had been purchased directly from the United States, or settled upon or claimed in good faith by any qualified settler under color of title or claim of right under any law of the United States, or any ruling of the Interior Department, and where purchaser, settler, or claimant refused to transfer his entry, upon a relinquishment thereof, to select, in lieu of the land relinquished, an equal quantity of public lands, surveyed or unsurveyed, not mineral or reserved, and not valuable for stone, iron, coal, and free from adverse claim, or not occupied by settlers at the time of such selection, situated within any state or territory into which such rail-
road land extended, and patents should issue for the land so selected, as though it had been originally granted. All selections of unsurveyed lands must be of odd-numbered sections, to be identified by the survey when made, and patent therefor was to issue to and be in the name of the corporation surrendering the lands before mentioned, and such patents were not to issue until after the survey. Lists of the lands purchased or settled upon or occupied as aforesaid were to be furnished the railroad. The railroad was to relinquish its title to said lands to the United States, and settlers were required to make proof of title. It was then provided that all qualified settlers, their heirs or assigns, who prior to January 1, 1898, purchased or settled upon or claimed in good faith, under color of title or claim of right under any law of the United States, or any ruling of the Interior Department, any part of an odd-numbered section in either the granted or indemnity limits of the land grant to the Northern Pacific Railroad, to which the right of such grantee, or its lawful successor, was claimed to have attached by definite location or selection made in lieu thereof, might transfer their claims to an equal quantity of public lands, surveyed or unsurveyed, not mineral or reserved, and not valuable for stone, iron, or coal, and free from valid adverse claim, or not occupied by a settler at the time of such entry situated in any state or territory into which such railroad grant extended, and make proof therefor as in other cases provided; and, in making such proof, credit was to be given for the period of their bona fide residence and amount of their improvements upon their respective claims in said granted or indemnity limits of the land grant to said railroad, the same as if made upon the tract to which the transfer was made; and before the Secretary of the Interior caused to be prepared and delivered to said railroad grantee, or its successor in interest, any list or lists of the several tracts which had been purchased or settled upon or occupied as hereinbefore provided, he must notify the purchaser, settler, or claimant, his heirs or assigns, claiming against said railroad, of his right to transfer his entry or claim, and must give him or them option to take lieu lands for those claimed by him or them, or hold his claim and allow said railroad to do so under the terms of this act. The provisions of this last act were extended and made applicable to all instances, where lands in odd-numbered sections within the indemnity limits of the grant to said railroad were patented to settlers under the public land laws in pursuance of applications presented or proceedings initiated in the local land office at a time when the land was embraced in a pending indemnity selection made by said company in conformity with the regulations of the Land Department, which indemnity selection had not since been forfeited or abandoned, by Act March 2, 1901, c. 807, 31 Stat. 950.

The desired extension into the states of North Dakota and South Dakota of the limits of grants of land made to the St. Paul, Minneapolis & Manitoba Railway Company was denied by rulings of the General Land Office; and settlers thereon claiming in good faith under color of title or right given by any of the land laws of the United States were made liable to be evicted from their holdings. For the purpose of relieving said settlers, it was provided that the Secretary of the Interior should cause to be prepared and delivered to the said railroad company a list of the several tracts of lands which had been purchased, claimed, occupied, and improved; that said railroad company should execute and deliver to the Secretary of the Interior a release to the United States of all its claims upon lands described in said list, and also procure and cause to be released to the United States all liens and claims to said lands derived through or under said company; that thereupon all right, title, and interest of said railroad company to said lands should revert to the United States, and said lands should be treated as if no rights thereto had ever vested in said railroad company; that all qualified persons who had occupied and made improvements on said lands, or who had purchased said lands in good faith, their heirs or assigns, should be permitted to perfect their titles to said lands in the same manner as if the grants had never been made,—by Act Aug. 5, 1892, c. 382, § 1, 27 Stat. 390.

The St. Paul, Minneapolis & Manitoba Railway Company was permitted to select in lieu of certain lands granted to the territory of Minnesota to aid in

(2037)

The Secretary of the Interior was authorized and directed to cause all lands within the Bozeman, Helena, Missoula, and Cœur d'Alene Land Districts within the land grant and indemnity land grant limits of the Northern Pacific Railroad, as defined by Act July 2, 1864, c. 217, to be examined and classified by commissioners, with special reference to the mineral or non-mineral character of such lands, and to reject, cancel, and disallow any and all claims or filings made by or on behalf of said railroad on any lands in said land districts which upon examination were classified as mineral lands, by Act Feb. 26, 1895, c. 151, § 1, 28 Stat. 683. Section 2 of said act provided for the appointment of the commissioners mentioned in section 1 fixed their compensation, prescribed the oath to be taken by them, and enumerated their powers and duties. Section 3 of said act provided that all lands should be classified as mineral which by reason of valuable mineral deposits were open to exploration, occupation, and purchase under the provisions of the mining laws, prescribed the description to be made of said lands, defined iron and coal lands, and provided for new examinations and classifications in certain cases. Section 4 of said act provided that the surveyed lands should be the first to be examined and classified. Section 5 of said act provided for a monthly report of the commissioners, its filing, its publication, protests against said reports, hearings on said protests, and appeals from the decision of the register and receiver to the Commissioner of the General Land Office. Section 6 of said act provided for the entry of said classifications on the land records. Section 7 of said act provided that only patents for non-mineral lands should be issued to the Northern Pacific Railroad. Section 8 of said act provided an appropriation for payment of the expenses of carrying out the provisions of the act, and required the Secretary of the Interior to embrace in his annual estimates submitted to Congress a sum sufficient to pay the councils for the fiscal year next ensuing, and annually thereafter until the classification of lands required by the act had been accomplished. Act June 4, 1897, c. 2, § 1, 30 Stat. 11, made changes in the manner of appointing and the qualifications of the commissioners and their compensation. Act March 3, 1899, c. 424, § 1, 30 Stat. 1074, extended the time for the completion of the classification. Act June 6, 1900, c. 791, § 1, 31 Stat. 688, again made changes in the number of commissioners, their qualifications, their compensation, and the manner in which they should act, and extended the time for the completion of the classification.

Subsequent appropriations were made to enable the Commissioner of the General Land Office to complete the examination and classification of lands within the limits of the Northern Pacific grant under said Act July 2, 1864, c. 217, 13 Stat. 365, as provided in said Act Feb. 26, 1895, c. 131, § 1, 28 Stat. 683, such examination and classification when approved by the Secretary of the Interior to have the same force and effect as a classification by the mineral land commissioners provided for in said Act Feb. 26, 1895. The provision for the fiscal year 1913 was by the deficiency appropriation act for the fiscal year 1912, Act Aug. 28, 1912, c. 405, 37 Stat. 609.

Provisions relating to the Union Pacific Railroad and other bond-aided railroads are set forth post, under Title LXIV, "Railways."
CHAPTER TEN C

Rights of Way and Other Easements in Public Lands

This chapter, inserted here as additional to the original chapters of this title of the Revised Statutes, includes principally R. S. §§ 2476, 2477, Act March 3, 1876, c. 172, Act March 3, 1891, c. 561, §§ 18-21, and other laws of a general and permanent nature relating to grants of rights of way for railroads, wagon roads, ditches, canals, etc., pipe lines, and electric light and power lines through, and reservoir sites upon, the public lands, national forests, parks, etc.

Provisions relating to rights of way through Indian lands generally are set forth ante, under Title XXVIII, Chapter 4B, "Rights of Way through Indian Lands," and special provisions relating to rights of way in Oklahoma and Alaska are set forth post, under this Title, Chapter 10J, "Public Lands in Oklahoma," and Chapter 10K, "Public Lands in Alaska," respectively.

Sec. 4918. Navigable rivers within public lands to be public highways.
Sec. 4919. Right of way for highways over public lands.
Sec. 4920. Extension of roads across military reservations; landing of ferries and erection of bridges thereon; driving cattle, etc.
Sec. 4921. Right of way through public lands, materials, grounds for stations, etc., granted to railroads.
Sec. 4922. Rights of several roads through canyons, etc.; grade crossings; effect on wagon roads and highways.
Sec. 4923. Condemnation of land.
Sec. 4924. Map of road to be filed; forfeiture of rights granted.
Sec. 4925. Lands excepted from operation of act.
Sec. 4926. Right to alter, amend, or repeal act.
Sec. 4927. Forfeiture of rights granted where railroad or section thereof not constructed in five years after location.
Sec. 4928. Forfeiture of rights granted where railroad or section thereof not constructed in five years after location.
Sec. 4929. Stations, etc., of railroads on rights of way granted.
Sec. 4930. Time for establishment of stations; penalty for failure.
Sec. 4931. Right of way through certain reserved lands in Minnesota for railroads.
Sec. 4932. Rights of way of railroads in Oklahoma and Arizona; lands to be subject thereto.
§ 4918. (R. S. § 2476.) Navigable rivers within public lands to be public highways.

All navigable rivers, within the territory occupied by the public lands, shall remain and be deemed public highways; and, in all cases where the opposite banks of any streams not navigable belong to different persons, the stream and the bed thereof shall become common to both.

Act May 18, 1796, c. 29, § 8, 1 Stat. 483. Act March 8, 1803, c. 27, § 17, 2 Stat. 235.

§ 4919. (R. S. § 2477.) Right of way for highways over public lands.

The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.

Act July 24, 1866, c. 262, § 8, 14 Stat. 258.

Any bona fide settler under the pre-emption, homestead, or other settlement law may transfer any portion of his claim for the right of way of railroads, canals, reservoirs, or ditches for irrigation or drainage across it, without vitiating his right to complete and perfect title to his claim, by Rev. St. § 2288, ante, § 4535.

§ 4920. (Act July 5, 1884, c. 214, § 6.) Extension of roads across military reservations; landing of ferries and erection of bridges thereon; driving cattle, etc.

The Secretary of War shall have authority, in his discretion, to permit the extension of State, county, and Territorial roads across military reservations; to permit the landing of ferries, the erection of bridges thereon; and permit cattle, sheep or other stock animals to be driven across such reservation, whenever in his judgment the same can be done without injury to the reservation or inconvenience to the military forces stationed thereon. (23 Stat. 104.)

The other sections of this act related to abandoned military reservations, and are set forth post, §§ 5003-5006.

§ 4921. (Act March 3, 1875, c. 152, § 1.) Right of way through public lands, materials, grounds for stations, etc., granted to railroads.

The right of way through the public lands of the United States is hereby granted to any railroad company duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also (2040)
the right to take, from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also ground adjacent to such right of way for station-buildings, depots, machine shops, side-tracks, turn-outs, and water-stations, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road. (18 Stat. 482.)

This section and the five sections next following were an act entitled "An act granting to railroads the right of way through the public lands of the United States."

Rights of way to railroads through Alaska were granted by Act May 14, 1868, c. 299, post, §§ 5083-5092.

Rights of way to railroads and telegraph and telephone lines through Indian reservations, lands, or allotments were granted by Act March 2, 1889, c. 374, ante, §§ 4181-4183.

Rights of way for railway, telegraph, and telephone lines in the Indian Territory, and in Indian reservations, etc., in Oklahoma, were granted to railway companies, by Act Feb. 28, 1902, c. 134, §§ 13-23, 32 Stat. 47-50.

Grants of rights of way for electrical poles and lines for transmission, etc., of electrical power, and for telephone and telegraph purposes, over public lands, national forests, and reservations of the United States, were authorized by provisions of Act March 4, 1811, c. 238, post, § 4948.

Grants of rights of way for pipe lines for conveyance of oil and gas through Indian reservations and other Indian lands were authorized by Act March 11, 1904, c. 505, ante, §§ 4192, 4193.

Right of way for pipe lines for oil or gas through public lands in the State of Arkansas was granted by Act April 12, 1910, c. 155, post, §§ 4953-4957.

Where, under this act and other acts, railroads had been constructed and were in operation in Arizona or Oklahoma, which passed through any lands theretofore reserved for said Territories, such lands were required to be disposed of subject to the right of way to the extent granted by this act, by Act June 26, 1906, c. 3548, post, § 4982.

§ 4922. (Act March 3, 1875, c. 152, § 2.) Rights of several roads through canyons, etc.; grade crossings; effect on wagon roads and highways.

Any railroad company whose right of way, or whose track or road-bed upon such right of way, passes through any canyon, pass, or defile, shall not prevent any other railroad company from the use and occupancy of the said canyon, pass, or defile, for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade. And the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any wagon or other public highway now located therein, nor prevent the location through the same of any such wagon road or highway where such road or highway may be necessary for the public accommodation; and where any change in the location of such wagon road is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall before entering upon the ground occupied by such wagon road, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road; Provided, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile. (18 Stat. 482.)
§ 4923. (Act March 3, 1875, c. 152, § 3.) Condemnation of land.

The legislature of the proper Territory may provide for the manner in which private lands and possessory claims on the public lands of the United States may be condemned; and where such provision shall not have been made, such condemnation may be made in accordance with section three of the act entitled "An act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two," approved July second, eighteen hundred and sixty-four. (18 Stat. 482.)

The acts referred to in this section were Act July 1, 1802, c. 120, 12 Stat. 489, and Act July 2, 1804, c. 216, 13 Stat. 357.

§ 4924. (Act March 3, 1875, c. 152, § 4.) Map of road to be filed; forfeiture of rights granted.

Any railroad-company desiring to secure the benefits of this act, shall, within twelve months after the location of any section of twenty miles of its road, if the same be upon surveyed lands, and, if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a profile of its road; and upon approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office; and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: Provided, That if any section of said road shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any such uncompleted section of said road. (18 Stat. 483.)

The forfeiture of rights granted by this act provided by this section, where the railroad or any section thereof has not been constructed within five years after its location is declared and enforced by Act June 26, 1906, c. 3550, and Act Feb. 25, 1909, c. 191, post, §§ 4927, 4928.

§ 4925. (Act March 3, 1875, c. 152, § 5.) Lands excepted from operation of act.

This act shall not apply to any lands within the limits of any military, park, or Indian reservation, or other lands especially reserved from sale, unless such right of way shall be provided for by treaty-stipulation or by act of Congress heretofore passed. (18 Stat. 483.)

Certain lands in Minnesota, reserved for flowage purposes, were declared to be subject to the provisions of this act by Act Feb. 27, 1901, c. 614, post, § 4931.

§ 4926. (Act March 3, 1875, c. 152, § 6.) Right to alter, amend, or repeal act.

Congress hereby reserves the right at any time to alter, amend, or repeal this act, or any part thereof. (18 Stat. 483.)

See notes to section 1 of this act, ante, § 4921.

(2042)
§ 4927. (Act June 26, 1906, c. 3550.) Forfeiture of rights granted where railroad or section thereof not constructed in five years after location.

Be it enacted, &c., That each and every grant of right of way and station grounds heretofore made to any railroad corporation under the Act of Congress approved March third, eighteen hundred and seventy-five, entitled "An Act granting to railroads the right of way through the public lands of the United States," where such railroad has not been constructed and the period of five years next following the location of said road, or any section thereof, has now expired, shall be, and hereby is, declared forfeited to the United States, to the extent of any portion of such located line now remaining unconstructed, and the United States hereby resumes the full title to the lands covered thereby freed and discharged from such easement, and the forfeiture hereby declared shall, without need of further assurance or conveyance, inure to the benefit of any owner or owners of land heretofore conveyed by the United States subject to any such grant of right of way or station grounds: Provided, That in any case under this Act where construction of the railroad is progressing in good faith at the date of the approval of this Act the forfeiture declared in this Act shall not take effect as to such line of railroad. (34 Stat. 482.)

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

Act March 3, 1875, c. 152, mentioned in this act, section 4 of which provided for forfeiture of the rights granted thereby, as declared by this act, is set forth ante, §§ 4921-4928.

Subsequent provisions similar to those of this act were made by Act Feb. 25, 1909, c. 191, post, § 4928.

§ 4928. (Act Feb. 25, 1909, c. 191.) Forfeiture of rights granted where railroad or section thereof not constructed in five years after location.

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

(2043)
this Act shall be in any wise affected, validated or invalidated, by the provisions of this Act. (35 Stat. 647.)

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

Act March 3, 1875, c. 152, mentioned in this act, is set forth ante, §§ 4921-4926.

Previous provisions similar to those of this act were made by Act June 26, 1906, c. 3550, ante, § 4827.

§ 4929. (Act Aug. 8, 1894, c. 236, § 1) Stations, etc., of railroads on rights of way granted.

All railroad companies operating railroads through the Territories of the United States over a right of way obtained under any grant or Act of Congress giving to said railroad companies the right of way over the public lands of the United States shall be required to establish and maintain passenger stations and freight depots at or within one-fourth of a mile of the boundary limits of all town sites already established in said Territories on the line of said railroads by authority of the Interior Department. (28 Stat. 263.)

This section and the section next following were an act entitled “An act to require railroad companies operating railroads in the Territories over a right of way granted by the Government to establish stations and depots at all town sites on the lines of said roads established by the Interior Department.”

§ 4930. (Act Aug. 8, 1894, c. 236, § 2) Time for establishment of stations; penalty for failure.

Said railroad companies are hereby required within three months from the passage of this Act to establish at or within one-fourth of a mile of the boundary limits of all town sites provided for in the preceding section, passenger stations, freight depots, and other accommodations necessary for receiving and discharging passengers and freight at such points; and upon failure of said companies to establish such stations and depots within said time said companies shall be liable to a fine of five hundred dollars for each day thereafter until said stations and depots shall be established, which shall be recovered in a suit brought by the United States in the United States courts in any Territory through which said railroads may pass. (28 Stat. 263.)

§ 4931. (Act Feb. 27, 1901, c. 614) Right of way through certain reserved lands in Minnesota for railroads.

That all lands in the State of Minnesota described in and withdrawn from sale by the proclamations of the President of the United States for the reason that said lands would be required for or subject to flowage in the construction of dams, reservoirs, and other works proposed to be erected for the improvement of the navigation of the Mississippi River and certain of its tributaries, be, and the same are hereby, declared to be, and to have been at all times heretofore, subject to the provisions of a certain Act of Congress entitled “An Act granting to railroads the right of way through the public lands of the United States,” approved March (2044)
third, eighteen hundred and seventy-five, as fully, effectually, and to
the same extent as though said lands had not been described in said
proclamations, or withdrawn from sale thereby, but had remained
with the body of public lands subject to private entry and sale:
Provided, however, That any and all parts of said lands acquired by
any railroad company under said Act of Congress shall at all times
be subject to the right of flowage which at any time may become
necessary in the construction or maintenance of dams, reservoirs, or
other works which may be constructed or erected by or under the
authority of the United States for the improvement of the naviga-
tion of the Mississippi River and its tributaries: Provided further,
That the railroad companies availing themselves of this Act shall,
in addition to filing the maps now required by law to be filed, also
file maps of definite location with elevation of rail of their lines of
railroad over said water-reserve lands in the office of the Secretary
of War; and no location shall be permitted which takes for right of
way or stations or interferes with submergence of lands needed for
the use of the present reservoir system, or in the construction of
dams or other works, or any proposed or probable extension of the
same, or which will obstruct or increase the cost of the present or
prospective reservoir system: Provided further, That the plan for
the location and construction of any such railway, or any part there-
of, shall be first submitted to the Secretary of War and approved
by him and by the Chief of Engineers of the United States Army.
(31 Stat. 815.)

This was an act entitled "An act to amend an act granting to railroads the
right of way through the public lands of the United States, approved March
third, eighteen hundred and seventy-five."
Act March 3, 1875, c. 152, mentioned in this act, is set forth ante, §§ 4921-
4926.

§ 4932. (Act June 26, 1906, c. 3548.) Rights of way of railroads
in Oklahoma and Arizona; lands to be subject thereto.
Where, under the Act of Congress approved March third, eight-
hundred and seventy-five, entitled, "An Act granting to railroads
the right of way through the public lands of the United States," or
under special Acts of Congress, or under the laws of the Territories
of Oklahoma and Arizona, railroads have been constructed and are
now in operation in Oklahoma or Arizona which may pass through
any of the lands heretofore reserved for said Territories, such lands
shall be disposed of subject to such railroad right or easement, but
only to the extent of the right of way conferred by the said Act of
March third, eighteen hundred and seventy-five, for such railroad
purposes. (34 Stat. 481.)

This was an act entitled "An act to confirm the right of way of railroads
now constructed and in operation in the Territories of Oklahoma and Arizona."
Oklahoma was admitted into the Union as a State by Act June 16, 1906,
c. 3335, 34 Stat. 267, and Arizona also was admitted by Act June 20, 1910,
c. 310, 36 Stat. 557.
Act March 3, 1875, c. 152, mentioned in this act, is set forth ante, §§ 4921-
4926.

(2045)
§ 4933. (Act Aug. 30, 1890, c. 837, § 1.) Reservation in patents of right of way for ditches or canals.

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. (26 Stat. 391.)

This was a proviso in the sundry civil appropriation act for the fiscal year 1891, cited above.

§ 4934. (Act March 3, 1891, c. 561, § 18.) Right of way to canal and ditch companies for irrigation purposes.

The right of way through the public lands and reservations of the United States is hereby granted to any canal or ditch company formed for the purpose of irrigation and duly organized under the laws of any State or Territory, which shall have filed, or may hereafter file, with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of the ground occupied by the water of the reservoir and of the canal and its laterals, and fifty feet on each side of the marginal limits thereof; also the right to take, from the public lands adjacent to the line of the canal or ditch, material, earth, and stone necessary for the construction of such canal or ditch:

Provided, That no such right of way shall be so located as to interfere with the proper occupation by the Government of any such reservation, and all maps of location shall be subject to the approval of the Department of the Government having jurisdiction of such reservation, and the privilege herein granted shall not be construed to interfere with the control of water for irrigation and other purposes under authority of the respective States or Territories. (26 Stat. 1101.)

This section and the three sections next following were part of the act repealing the timber culture laws.

Other sections of the act are set forth or referred to post, § 5116.

Rights of way within and across forest reserves, for construction and maintenance of dams, reservoirs, water plants, ditches, etc., for municipal and mining purposes, and for milling and reduction of ores, were granted by Act Feb. 1, 1905, c. 288, § 4, post, § 4947.

§ 4935. (Act March 3, 1891, c. 561, § 19.) Map to be filed; approval; damages to settlers.

Any canal or ditch company desiring to secure the benefits of this act shall, within twelve months after the location of ten miles of its canal, if the same be upon surveyed lands, and if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a map of its canal or ditch and reservoir; and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such rights of way shall pass shall be disposed of subject to such right of way. Whenever any person or corporation, in the construction of any canal, ditch, or res-

(2046)
ervoir, injures or damages the possession of any settler on the public domain, the party committing such injury or damage shall be liable to the party injured for such injury or damage. (26 Stat. 1102.)

See notes to section 18 of this act, ante, § 4934.

§ 4936. (Act March 3, 1891, c. 561, § 20.) Application of act to existing and future canals, etc.; forfeiture of rights granted.

The provisions of this act shall apply to all canals, ditches, or reservoirs, heretofore or hereafter constructed, whether constructed by corporations, individuals, or association of individuals, on the filing of the certificates and maps herein provided for. If such ditch, canal, or reservoir, has been or shall be constructed by an individual or association of individuals, it shall be sufficient for such individual or association of individuals to file with the Secretary of the Interior, and with the register of the land office where said land is located, a map of the line of such canal, ditch, or reservoir, as in case of a corporation, with the name of the individual owner or owners thereof, together with the articles of association, if any there be. Plats heretofore filed shall have the benefits of this act from the date of their filing, as though filed under it: Provided, That if any section of said canal, or ditch, shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any uncompleted section of said canal, ditch, or reservoir, to the extent that the same is not completed at the date of the forfeiture. (26 Stat. 1102.)

See notes to section 18 of this act, ante, § 4934.

§ 4937. (Act March 3, 1891, c. 561, § 21.) Use for canal or ditch only.

Nothing in this act shall authorize such canal or ditch company to occupy such right of way except for the purpose of said canal or ditch, and then only so far as may be necessary for the construction, maintenance, and care of said canal or ditch. (26 Stat. 1102.)

See notes to section 18 of this act, ante, § 4934.

§ 4938. (Act May 11, 1898, c. 292, § 2.) Right of way for purposes of water transportation, domestic purposes, or development of power.

The rights of way for ditches, canals, or reservoirs heretofore or hereafter approved under the provisions of sections eighteen, nineteen, twenty, and twenty-one of the Act entitled “An Act to repeal timber-culture laws, and for other purposes,” approved March third, eighteen hundred and ninety-one, may be used for purposes of a public nature; and said rights of way may be used for purposes of water transportation, for domestic purposes, or for the development of power, as subsidiary to the main purpose of irrigation. (30 Stat. 404.)

This section was part of an act entitled “An act to amend an act to permit the use of the right of way through public lands for tramroads, canals and reservoirs, and for other purposes,” cited above.

Section 1 of that act amended Act Jan. 21, 1895, c. 37, and is incorporated in that act as set forth post, § 4943.

Act March 3, 1891, c. 561, §§ 18-21, mentioned in this section is set forth ante, §§ 4934-4937.

(2047)
§ 4939. (Act Jan. 13, 1897, c. 11, § 1.) Reservoir sites for furnishing water for live stock.

Any person, live-stock company, or transportation corporation engaged in breeding, grazing, driving, or transporting live stock may construct reservoirs upon unoccupied public lands of the United States, not mineral or otherwise reserved, for the purpose of furnishing water to such live stock, and shall have control of such reservoir, under regulations prescribed by the Secretary of the Interior, and the lands upon which the same is constructed, not exceeding one hundred and sixty acres, so long as such reservoir is maintained and water kept therein for such purposes: Provided, That such reservoir shall not be fenced and shall be open to the free use of any person desiring to water animals of any kind. (29 Stat. 484.)

This section and the three sections next following were an act entitled "An act providing for the location and purchase of public lands for reservoir sites."

§ 4940. (Act Jan. 13, 1897, c. 11, § 2.) Declaratory statement.

Any person, live-stock company, or corporation desiring to avail themselves of the provisions of this Act shall file a declaratory statement in the United States land office in the district where the land is situated, which statement shall describe the land where such reservoir is to be or has been constructed; shall state what business such corporation is engaged in; specify the capacity of the reservoir in gallons, and whether such company, person, or corporation has filed upon other reservoir sites within the same county; and if so, how many. (29 Stat. 484.)

§ 4941. (Act Jan. 13, 1897, c. 11, § 3.) Survey; map of location.

At any time after the completion of such reservoir or reservoirs which, if not completed at the date of the passage of this Act, shall be constructed and completed within two years after filing such declaratory statement, such person, company, or corporation shall have the same accurately surveyed, as hereinafter provided, and shall file in the United States land office in the district in which such reservoir is located a map or plat showing the location of such reservoir, which map or plat shall be transmitted by the register and receiver of said United States land office to the Secretary of the Interior and approved by him, and thereafter such land shall be reserved from sale by the Secretary of the Interior so long as such reservoir is kept in repair and water kept therein. (29 Stat. 484.)

§ 4942. (Act Jan. 13, 1897, c. 11, § 4.) Right to amend or repeal act.

Congress may at any time amend, alter, or repeal this Act. (29 Stat. 484.)

See notes to section 1 of this act, ante, § 4889.

§ 4943. (Act Jan. 21, 1895, c. 37, as amended, Act May 11, 1896, c. 292, § 1.) Right of way for tramroads, canals, or reservoirs for certain purposes.

That the Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him, to permit the use of the right of way through the public lands of
the United States, not within the limits of any park, forest, military or Indian reservation, for tramroads, canals or reservoirs to the extent of the ground occupied by the water of the canals and reservoirs and fifty feet on each side of the marginal limits thereof; or fifty feet on each side of the center line of the tramroad, by any citizen or any association of citizens of the United States engaged in the business of mining or quarrying or of cutting timber and manufacturing lumber.

That the Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him, to permit the use of right of way upon the public lands of the United States, not within limits of any park, forest, military, or Indian reservations, for tramways, canals, or reservoirs, to the extent of the ground occupied by the water of the canals and reservoirs, and fifty feet on each side of the marginal limits thereof, or fifty feet on each side of the center line of the tramroad, by any citizen or association of citizens of the United States, for the purposes of furnishing water for domestic, public, and other beneficial uses. (28 Stat. 635. 30 Stat. 404.)

This was an act entitled "An act to permit the use of the right of way through the public lands for tram-roads, canals, and reservoirs, and for other purposes."

The section immediately following was added to this act by amendment by Act May 14, 1896, c. 179, § 2.

This section was again amended by Act May 11, 1898, c. 292, § 1, by adding the second paragraph of the section as set forth here.

Rights of way within and across forest reserves, for construction and maintenance of dams, reservoirs, water plants, ditches, etc., for municipal and mining purposes, and for milling and reduction of ores, were granted by Act Feb. 1, 1905, c. 281, § 4, post, § 4947.

§ 4944. (Act May 14, 1896, c. 179, § 2.) Right of way to electric power companies.

That the Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him, to permit the use of right of way to the extent of twenty-five feet, together with the use of necessary ground, not exceeding forty acres, upon the public lands and forest reservations of the United States, by any citizen or association of citizens of the United States, for the purposes of generating, manufacturing, or distributing electric power. (29 Stat. 120.)

See notes to preceding section.

§ 4945. (Act March 3, 1899, c. 427, § 1.) Rights of way over forest reservation or reservoir site for wagon roads, railroads, etc.

That in the form provided by existing law the Secretary of the Interior may file and approve surveys and plats of any right of way for a wagon road, railroad, or other highway over and across any forest reservation or reservoir site when in his judgment the public interests will not be injuriously affected thereby. (30 Stat. 1233.)

This was a provision of the deficiency appropriation act for the fiscal year 1899, cited above.

Comp. St. '13—129 (2049)
§ 4946. (Act Feb. 15, 1901, c. 372.) Rights of way through public lands, forest and other reservations, and Yosemite, Sequoia, and General Grant National Parks, for electrical plants, etc.

That the Secretary of the Interior be, and hereby is, authorized and empowered, under general regulations to be fixed by him, to permit the use of rights of way through the public lands, forest and other reservations of the United States, and the Yosemite, Sequoia, and General Grant national parks, California, for electrical plants, poles, and lines for the generation and distribution of electrical power, and for telephone and telegraph purposes, and for canals, ditches, pipes and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber or lumber, or the supplying of water for domestic, public, or any other beneficial uses to the extent of the ground occupied by such canals, ditches, flumes, tunnels, reservoirs, or other water conduits or water plants, or electrical or other works permitted hereunder, and not to exceed fifty feet on each side of the marginal limits thereof, or not to exceed fifty feet on each side of the center line of such pipes and pipe lines, electrical, telegraph, and telephone lines and poles, by any citizen, association, or corporation of the United States, where it is intended by such to exercise the use permitted hereunder or any one or more of the purposes herein named: Provided, That such permits shall be allowed within or through any of said parks or any forest, military, Indian, or other reservation only upon the approval of the chief officer of the Department under whose supervision such park or reservation falls and upon a finding by him that the same is not incompatible with the public interest: Provided further, That all permits given hereunder for telegraph and telephone purposes shall be subject to the provision of title sixty-five of the Revised Statutes of the United States, and amendments thereto, regulating rights of way for telegraph companies over the public domain: And provided further, That any permission given by the Secretary of the Interior under the provisions of this Act may be revoked by him or his successor in his discretion, and shall not be held to confer any right, or easement, or interest in, to, or over any public land, reservation, or park. (31 Stat. 790.)

This was an act entitled "An act relating to rights of way through certain parks, reservations and other public lands."

Further provisions granting rights of way through public lands, national forests, and reservations, for electrical poles and lines, were made by Act March 4, 1911, c. 238, post, § 4948.

Further provisions granting rights of way within and across forest reserves, for the construction and maintenance of dams, reservoirs, water plants, ditches, etc., for purposes similar to those specified in this section, were contained in Act Feb. 1, 1905, c. 251, § 4, post, § 4947.

The Secretary of the Interior may require the payment of such price as he deems proper for privileges accorded under this section on the land segregated from the Yosemite National Park and made a part of the Sierra National forest, by Act Feb. 7, 1905, c. 547, § 1, post, § 5212.

A right of way across the public lands in Tuolumne, Stanislaus, San Joaquin, and Alameda counties in California, and across the Stanislaus National (2050)
§ 4947. (Act Feb. 1, 1905, c. 288, § 4.) Rights of way within and
across forest reserves for dams, reservoirs, water plants, ditches,
etc., for municipal and mining purposes and for milling and
reduction of ores.

Rights of way for the construction and maintenance of dams,
reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals, within
and across the forest reserves of the United States, are hereby granted
to citizens and corporations of the United States for municipal or
mining purposes, and for the purposes of the milling and reduction
of ores, during the period of their beneficial use, under such rules
and regulations as may be prescribed by the Secretary of the In-
terior, and subject to the laws of the State or Territory in which said
reserves are respectively situated. (33 Stat. 623.)

This section was part of an act which transferred the execution of the laws
relating to forest reserves from the Secretary of the Interior to the Secretary
of Agriculture, other sections of which are set forth post, §§ 5142, 5152.

Previous provisions authorizing grants of rights of way through forest and
other reservations and certain national parks for various works, including
canals, ditches, etc., and water plants, dams, and reservoirs, etc., were made
by Act Feb. 15, 1901, c. 372, ante, § 4946.

§ 4948. (Act March 4, 1911, c. 238.) Rights of way through pub-
lic lands, national forests, and reservations, for electrical poles
and lines; approval of chief officer of department; forfeiture
for non-user; rights of holders of previous permits.

That the head of the department having jurisdiction over the lands
be, and he hereby is, authorized and empowered, under general regu-
lations to be fixed by him, to grant an easement for rights of way, for
a period not exceeding fifty years from the date of the issuance of
such grant, over, across, and upon the public lands, national forests,
and reservations of the United States for electrical poles and lines
for the transmission and distribution of electrical power, and for poles
and lines for telephone and telegraph purposes, to the extent of twenty
feet on each side of the center line of such electrical, telephone and
telegraph lines and poles, to any citizen, association, or corporation
of the United States, where it is intended by such to exercise the
right of way herein granted for any one or more of the purposes
herein named: Provided, That such right of way shall be allowed
within or through any national park, national forest, military, Indian,
or any other reservation only upon the approval of the chief officer
of the department under whose supervision or control such reserva-
tion falls, and upon a finding by him that the same is not incom-
patible with the public interest: Provided, That all or any part of such
right of way may be forfeited and annulled by declaration of the head
of the department having jurisdiction over the lands for non-use for a period of two years or for abandonment.

That any citizen, association, or corporation of the United States to whom there has heretofore been issued a permit for any of the purposes specified herein under any existing law, may obtain the benefit of this Act upon the same terms and conditions as shall be required of citizens, associations, or corporations hereafter making application under the provisions of this statute. (36 Stat. 1253.)

These were provisions of the agricultural appropriation act for the fiscal year 1912, cited above.

Previous provisions granting rights of way for electrical poles and lines through public lands, forest and other reservations, and certain parks were contained in Act Feb. 15, 1901, c. 372, ante, § 4946.

§ 4949. (Act May 21, 1896, c. 212, § 1.) Right of way in Colorado and Wyoming to pipe line companies.

The right of way through the public lands of the United States situate in the State of Colorado and in the State of Wyoming outside of the boundary lines of the Yellowstone National Park is hereby granted to any pipe line company or corporation formed for the purpose of transporting oils, crude or refined, which shall have filed or may hereafter file with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of the ground occupied by said pipe line and twenty-five feet on each side of the center line of the same; also the right to take from the public lands adjacent to the line of said pipe line material, earth, and stone necessary for the construction of said pipe line. (29 Stat. 127.)

This section and the three sections next following were an act entitled "An act to grant right of way over the public domain for pipe lines in the States of Colorado and Wyoming."

Grants of rights of way for pipe lines for conveyance of oil and gas through Indian reservations and other Indian lands were authorized by Act March 11, 1904, c. 505, ante, §§ 4192, 4193.

Right of way for pipe lines for oil or gas through public lands in the State of Arkansas was granted by Act April 12, 1910, c. 155, post, §§ 4953-4967.

§ 4950. (Act May 21, 1896, c. 212, § 2.) Applications; approval.

Any company or corporation desiring to secure the benefits of this Act shall, within twelve months after the location of ten miles of the pipe line, if the same be upon surveyed lands and if the same be upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a map of its line, and upon the approval thereof by the Secretary of the Interior the same shall be noted upon the plats in said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way. (29 Stat. 127.)

§ 4951. (Act May 21, 1896, c. 212, § 3.) Forfeiture of rights granted.

If any section of said pipe line shall not be completed within five years after the location of said section the right herein granted shall be forfeited, as to any incomplete section of said pipe line, to the
extent that the same is not completed at the date of the forfeiture. (29 Stat. 127.)

§ 4952. (Act May 21, 1896, c. 212, § 4.) Use for pipe line only.
Nothing in this Act shall authorize the use of such right of way except for the pipe line, and then only so far as may be necessary for its construction, maintenance, and care. (29 Stat. 127.)

§ 4953. (Act April 12, 1910, c. 155, § 1.) Right of way in Arkansas to pipe line companies.
A right of way through the public lands of the United States in the State of Arkansas is hereby granted for pipe-line purposes to any citizen of the United States or any company or corporation authorized by its charter to transport oil, crude or refined, or natural gas which shall have filed or may hereafter file with the Secretary of the Interior a copy of its articles of incorporation, and due proof of organization under the same, to the extent of the ground occupied by the said pipe line and ten feet on each side of the center line of same. (36 Stat. 296.)

This section and the four sections next following were an act entitled "An act to grant right of way over the public domain in the State of Arkansas for oil or gas pipe lines."

Similar provisions for grants of rights of way for pipe lines through public lands in Colorado and Wyoming were made by Act May 21, 1896, c. 212, ante, §§ 4949–4952.

§ 4954. (Act April 12, 1910, c. 155, § 2.) Applications; approval.
Any citizen of the United States, company, or corporation desiring to secure the benefits of this Act shall within twelve months after the location of ten miles of the pipe line, if the same be upon surveyed land, and if the same be upon unsurveyed lands within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a map of its lines, and upon the approval thereof by the Secretary of the Interior, the same shall be noted upon the plats in said office, and thereafter all such land over which such line shall pass shall be disposed of subject to such right of way. (36 Stat. 296.)

§ 4955. (Act April 12, 1910, c. 155, § 3.) Use of right of way for pipe line only.
Nothing in this Act shall authorize the use of such right of way except for the pipe line, and then only so far as may be necessary for its construction, maintenance, and care. (36 Stat. 296.)

§ 4956. (Act April 12, 1910, c. 155, § 4.) Forfeiture of right for nonuser, etc.
If any section of said pipe line shall not be completed within one year after the approval by the Secretary of the Interior of said section, or if any section of said pipe line shall be abandoned or shall not be used for a period of two years, the right of way herein granted as to any uncompleted, abandoned or unused section of said pipe line shall be forfeited to the extent that the same is not completed or is abandoned or unused at the date of the forfeiture, without further action or declaration on the part of the Government or any proceedings or judgment of any court. (36 Stat. 296.)

(2063)
§ 4957. (Act April 12, 1910, c. 155, § 5.) Forfeiture of right for violation of anti-trust law.

If any citizen, company, or corporation taking advantage of the benefits of this Act, shall violate the Act of July second, eighteen hundred and ninety, entitled "An Act to protect trade and commerce against unlawful restraints and monopolies" (commonly known as the Sherman antitrust act), or any amendment thereof, the right of way herein granted shall be forfeited without further action or declaration on the part of the Government or any proceedings or judgment of any court. (36 Stat. 296.)

The Sherman antitrust act, mentioned in this section, is Act July 2, 1890, c. 647, post, §§ 8820–8823.

CHAPTER TEN D
Grants of Swamp and Overflowed Lands

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes R. S. §§ 2479–2484, 2488, 2490, and other laws supplementary thereto, relating to grants of swamp and overflowed lands to the several States.

Sec. 4958. Grant of swamp and overflowed lands to certain States to aid in construction of levees, etc.

Sec. 4964. Swamp and overflowed lands to be certified to State within one year, in certain cases.

Sec. 4959. Secretary of the Interior to make lists of such lands, for transmission to the governors of the States.

Sec. 4965. Act Sept. 28, 1890, c. 84, § 9 Stat. 519, extended to Minnesota and Oregon.

Sec. 4960. Legal subdivisions mostly wet and unfit for cultivation.

Sec. 4966. Homestead entries by purchasers from State of Missouri of lands, as swamp lands, declared not to be such.

Sec. 4961. Indemnity to States where lands have been sold by United States.

Sec. 4967. Grant to Missouri of lands selected as swamp and overflowed lands.

Sec. 4962. Patents to issue for swamp lands to purchasers and locators, prior to issuing of patents to States, etc.

Sec. 4968. Title of purchasers of unconfirmed swamp lands in Arkansas confirmed.

Sec. 4963. Selection of swamp and overflowed lands confirmed.

Sec. 4969. Relinquishment by Arkansas of swamp lands and other public lands granted.

§ 4958. (R. S. § 2479.) Grant of swamp and overflowed lands to certain States to aid in construction of levees, etc.

To enable the several States (but not including the States of Kansas, Nebraska, and Nevada) to construct the necessary levees and drains, to reclaim the swamp and overflowed lands therein—the whole of the swamp and overflowed lands, made unfit thereby for cultivation, and remaining unsold on or after the twenty-eighth day of September, A. D. eighteen hundred and fifty, are granted and belong to the several States respectively, in which said lands are situated: Provided, however, That said grant of swamp and overflowed lands, as to the State of California, Minnesota, and Oregon, is subject to the limitations, restrictions and conditions hereinafter
named and specified, as applicable to said three last-named States respectively.

Act Sept. 28, 1850, c. 84, §§ 1, 4, 9 Stat. 519, 520. Act March 12, 1860, c. 5, § 1, 12 Stat. 3.


§ 4959. (R. S. § 2480.) Secretary of the Interior to make lists of such lands, for transmission to the governors of the States.

It shall be the duty of the Secretary of the Interior, to make accurate lists and plats of all such lands, and transmit the same to the governors of the several States in which such lands may lie, and at the request of the governor of any State in which said swamp and overflowed lands may be, to cause patents to be issued to said State therefor, conveying to said State the fee-simple of said land.

The proceeds of said lands, whether from sale or by direct appropriation in kind, shall be applied exclusively, as far as necessary, to the reclaiming said lands, by means of levees and drains.

Act Sept. 28, 1850, c. 84, § 2, 9 Stat. 519.

§ 4960. (R. S. § 2481.) Legal subdivisions mostly wet and unfit for cultivation.

In making out lists and plats of the lands aforesaid all legal subdivisions, the greater part whereof is wet and unfit for cultivation, shall be included in said lists and plats, but when the greater part of a subdivision is not of that character, the whole of it shall be excluded therefrom.

Act Sept. 28, 1850, c. 84, § 3, 9 Stat. 519.

§ 4961. (R. S. § 2482.) Indemnity to States where lands have been sold by United States.

Upon proof by the authorized agent of the State, before the Commissioner of the General Land-Office, that any of the lands purchased by any person from the United States, prior to March 2d, 1855, were "swamp-lands," within the true intent and meaning of the act entitled "An act to enable the State of Arkansas and other States to reclaim the swamp-lands within their limits," approved September twenty-eight, eighteen hundred and fifty, the purchase-money shall be paid over to the State wherein said land is situate; and when the lands have been located by warrant or scrip, the said State shall be authorized to locate a like quantity of any of the public lands subject to entry, at one dollar and twenty-five cents per acre, or less, and patents shall issue therefor. The decision of the Commissioner of
the General Land-Office shall be first approved by the Secretary of the Interior.

Act March 2, 1855, c. 147, § 2, 10 Stat. 634, 635.
A permanent appropriation to pay to the States the proceeds of swamp lands within their limits erroneously sold by the United States was made by Rev. St. § 3689, post, § 6799.

§ 4962. (R. S. § 2483.) Patents to issue for swamp lands to purchasers and locators, prior to issuing of patents to States, etc.
The President of the United States shall cause patents to be issued to the purchaser or purchasers, locator or locators, who made entries of the public lands claimed as swamp lands, either with cash or land-warrants, or scrip, or under any homestead or pre-emption laws prior to the issue of patents to the State or States: Provided, That in all cases where any State through its constituted authorities, may have sold or disposed of any tract or tracts of land prior to the entry sale or location of the same under the pre-emption or other laws of the United States, no patent shall be issued by the President for such tract or tracts of land, until such State through its constituted authorities, shall release its claim thereto in such form as shall be prescribed by the Secretary of the Interior. In all cases where such State did not within ninety days from the second day of March, 1855, the date of an act entitled, "An act for the relief of purchasers and locators of swamp and overflowed lands" through its constituted authorities, return to the General Land-Office of the United States, a list of all the lands sold as aforesaid, together with the dates of such sales and the names of the purchasers, the President shall issue patents to persons who made such entries of the public lands so claimed as swamp-land.

Act March 2, 1855, c. 147, § 1, 10 Stat. 634.

§ 4963. (R. S. § 2484.) Selection of swamp and overflowed lands confirmed.
All lands selected and reported to the General Land-Office as swamp and overflowed land by the several States entitled to the provisions of said act of Sept. 28, 1859, prior to March third, A. D. eighteen hundred and fifty-seven, are confirmed to said States respectively so far as the same remained vacant and unappropriated and not interfered with by an actual settlement under any law of the United States.


§ 4964. (R. S. § 2488.) Swamp and overflowed lands to be certified to State within one year, in certain cases.
It shall be the duty of the Commissioner of the General Land-Office, to certify over to the State of California as swamp and overflowed lands, all the lands represented as such upon the approved township surveys and plats, whether made before or after the 23d day of July, 1866, under the authority of the United States.
The surveyor-general of the United States for California, shall under the direction of the Commissioner of the General Land-Office, examine the segregation maps and surveys of the swamp and overflowed lands, made by said State; and where he shall find them to con-
(2056)
form to the system of surveys adopted by the United States, he shall
construct and approve township plats accordingly, and forward to the
General Land-Office for approval.

In segregating large bodies of land, notoriously and obviously
swamp and overflowed, it shall not be necessary to subdivide the
same, but to run the exterior lines of such body of land.

In case such State surveys are found not to be in accordance with
the system of United States surveys, and in such other townships as
no survey has been made by the United States, the Commissioner shall
direct the surveyor-general, to make segregation surveys, upon applica-
tion to the surveyor-general, by the governor of said State, within
one year of such application, of all the swamp and overflowed land in
such townships, and to report the same to the General Land-Office,
representing and describing what land was swamp and overflowed,
under the grant, according to the best evidence he can obtain.

If the authorities of said State, shall claim as swamp and overflowed,
any land not represented as such upon the map or in the returns of the
surveyors, the character of such land at the date of the grant Septem-
ber twenty-eight, eighteen hundred and fifty, and the right to the same
shall be determined by testimony, to be taken before the surveyor-
general, who shall decide the same, subject to the approval of the
Commissioner of the General Land-Office.


R. S. § 2489, required the local land offices in California immediately to
forward lists and maps of all swamp and overflowed lands claimed by the State
or surveyed as provided in the ten preceding sections of the Revised Statutes.

for final disposition and determination, which final disposition should be made
by the Commissioner of the General Land Office without delay. That section
is omitted as temporary merely, and executed.

§ 4965. (R. S. § 2490.) Act Sept. 28, 1850, c. 84, 9 Stat. 519, ex-
tended to Minnesota and Oregon.

The provisions of the act of Congress entitled "An act to enable
the State of Arkansas and other States to redeem" the swamp lands
within their limits, approved September 28, A. D. 1850, extend to
the States of Minnesota and Oregon: Provided, That the grant shall
not include any lands which the Government of the United States may
have sold or disposed of under any law, enacted prior to March 12,
1860, prior to the confirmation of title to be made under the authority
of said act—and the selections to be made from lands already surveyed
in each of the States last named, under the authority of the act afore-
said, shall have been made within two years from the adjournment of
the legislature of each State, at its next session after the 12th day of
March, A. D. 1860—and as to all lands surveyed or to be surveyed,
thereafter, within two years from such adjournment, at the next ses-
son after notice by the Secretary of the Interior to the governor of the
State, that the surveys have been completed and confirmed.

Act March 12, 1860, c. 5, §§ 1, 2, 12 Stat. 3.

§ 4966. (Act Feb. 23, 1875, c. 99.) Homestead entries by purchas-
ers from State of Missouri of lands, as swamp lands, declared
not to be such.

In all cases in the State of Missouri where lands have hereto-
fore been selected and claimed as swamp and overflowed lands by
said State, and the various counties therein, by virtue of any act
of Congress, and said lands have been withheld from market in
consequence thereof by the General Government, and the said
State and counties have sold said lands to actual settlers, and said
settlers have improved the same to the value of one hundred dol-
ars; said settlers, their heirs, assigns, and legal representatives,
who have continued to reside thereon, shall have priority of right
to [preempt or] homestead all such lands as may be rejected by
the United States as not being in fact swamp and overflowed
lands; and it shall be the duty of the Secretary of the Interior
to make such rules and regulations as may be necessary to carry
into effect the provisions of this act: Provided, That nothing here-
in contained shall prejudice the rights of any person who may
have made actual settlement upon such lands under the preemption
or homestead laws prior to the passage of this act. (18 Stat.
334.)

This was an act entitled "An act for the relief of actual settlers on lands
claimed to be swamp and overflowed lands in the State of Missouri."
The words "preempt or," inclosed in brackets in this section, were su-
pered by the repeal of the pre-emption laws by Act March 3, 1891, c. 661, § 4.
26 Stat. 1097.

§ 4967. (Act March 3, 1877, c. 116.) Grant to Missouri of lands
selected as swamp and overflowed lands.
That all lands in the State of Missouri selected as swamp and
overflowed lands, and regularly reported as such to the General
Land Office, and now withheld from market as such, so far as the
same remain vacant and unappropriated and not interfered with
by any preemption, homestead, or other claim under any law of
the United States, and the claim thereto has not been heretofore re-
jected by the Commissioner of the General Land Office, or other
competent authority, be, and the same are hereby, confirmed to said
State, and all title thereto vested in said State; and it is hereby made
the duty of the Secretary of the Interior to cause patents to issue for
the same. (19 Stat. 395.)

This was an act entitled "An act granting to the State of Missouri all
lands therein selected as swamp and overflowed lands."

§ 4968. (Act April 29, 1898, c. 229, § 3.) Title of purchasers of
unconfirmed swamp lands in Arkansas confirmed.
That the title of all persons who have purchased from the State
of Arkansas any unconfirmed swamp land and hold deeds for the
same be, and the same is hereby, confirmed and made valid as
against any claim or right of the United States, and without the
payment by said persons, their heirs or assigns, of any sum what-
ever to the United States or to the State of Arkansas. (30 Stat.
368.)

This section and the section next following were part of an act to approve
a compromise and settlement between the United States and the State of
Arkansas, cited above.

(2058)
§ 4969. (Act April 29, 1898, c. 229, § 4.) Relinquishment by Arkansas of swamp lands and other public lands granted.

The State of Arkansas does hereby relinquish and quitclaim to the United States all lands heretofore confirmed, certified, or patented to the State which have been entered under the public land laws; and does hereby cede, relinquish, and quitclaim to the United States all right, title, and interest under the Acts of September twenty-eighth, eighteen hundred and fifty, March second, eighteen hundred and fifty-five, and March third, eighteen hundred and fifty-seven, in and to all lands in the State which have been heretofore granted, confirmed, certified, or patented by the United States under any other Acts, and the title to such lands is hereby confirmed in the grantees, their heirs, successors, or assigns, anything in this Act or any other Act to the contrary notwithstanding: Provided, That this Act shall be of no force or effect until the State of Arkansas shall have accepted and approved the conditions, limitations, and provisions herein contained by an act of the general assembly or by an instrument in writing duly executed by the governor under the authority conferred upon him by the legislature of said State, and filed with the Secretary of the Treasury and the Secretary of the Interior within one year from the approval of this Act: Provided further, That whereas the general assembly of the State of Arkansas did, on the tenth day of March, eighteen hundred and ninety-seven, accept and approve the conditions, limitations, and provisions herein contained before the passage of this Act, making the same effective and conclusive, therefore this Act shall be in full force and effect from and after its passage. (30 Stat. 368.)

See note to preceding section.

CHAPTER TEN E

Drainage under State Laws

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes the provisions of Act May 20, 1908, c. 181, relating to the drainage of public lands in Minnesota under the laws of that State.

Sec. 4970. Public lands in Minnesota made subject to state laws for drainage of swamp or overflowed lands for agricultural purposes.

Sec. 4971. Apportionment of cost of drainage works; act not to create any obligation on the United States.

Sec. 4972. Sale of lands for enforcement of charges assessed.

Sec. 4973. Statement of sale of land under act to be certified to register and receiver.

Sec. 4974. Patents to purchasers of unentered lands at sale under act; limitations; disposal of excess of purchase money over payments required and drainage charges.

Sec. 4975. Patents to purchasers of unpatented lands at sale under act; disposal of excess of sum received over payments required and drainage charges; forfeiture of rights of purchasers on nonpayment, and subrogation thereto of person making payment; disposal of proceeds.

Sec. 4976. Notices required by drainage laws to be delivered to register and receiver and to entrymen of unpatented lands affected; rights of United States and of such entrymen to be heard, etc. (2059)
§ 4970. (Act May 20, 1908, c. 181, § 1.) Public lands in Minnesota made subject to state laws for drainage of swamp or overflowed lands for agricultural purposes.

All lands in the State of Minnesota, when subject to entry, and all entered lands for which no final certificates have issued, are hereby made and declared to be subject to all of the provisions of the laws of said State relating to the drainage of swamp or overflowed lands for agricultural purposes to the same extent and in the same manner in which lands of a like character held in private ownership are or may be subject to said laws: Provided, That the United States and all persons legally holding unpatented lands under entries made under the public-land laws of the United States are accorded all the rights, privileges, and benefits given by said laws to persons holding lands of a like character in private ownership. (35 Stat. 169.)

This section and the six sections next following were part of an act entitled "An act to authorize the drainage of certain lands in the State of Minnesota."

Section 8 of that act opened to homestead entries certain ceded Chippewa Indian lands in Minnesota. It is omitted, as special and local only.

§ 4971. (Act May 20, 1908, c. 181, § 2.) Apportionment of cost of drainage works; act not to create any obligation on the United States.

The cost of constructing canals, ditches, and other drainage works incurred in connection with any drainage project under said laws shall be equitably apportioned among all lands held in private ownership, all lands covered by unpatented entries, and all unentered public lands affected by such project; and officially certified lists showing the amount of the charges assessed against each smallest legal subdivision of such lands shall be furnished to the register and receiver of the land district in which the lands affected are located as soon as said charges are assessed, but nothing in this Act shall be construed as creating any obligation on the United States to pay any of said charges. (35 Stat. 169.)

§ 4972. (Act May 20, 1908, c. 181, § 3.) Sale of lands for enforcement of charges assessed.

All charges legally assessed may be enforced against any unentered lands, or against any lands covered by an unpatented entry, by the sale of such lands subject to the same manner and under the same proceedings under which such charges would be enforced against lands held in private ownership. (35 Stat. 170.)

§ 4973. (Act May 20, 1908, c. 181, § 4.) Statement of sale of land under act to be certified to register and receiver.

When any unentered lands, or any lands covered by an unpatented entry, have been sold in the manner mentioned in this Act, a statement of such sale showing the price at which each legal subdivision was sold shall be officially certified to the register and receiver immediately after the completion of such sale. (35 Stat. 170.)

(2060)
§ 4974. (Act May 20, 1908, c. 181, § 5.) Patents to purchasers of unentered lands at sale under act; limitations; disposal of excess of purchase money over payments required and drainage charges.

At any time after any sale of unentered lands has been made in the manner and for the purposes mentioned in this Act patent shall issue to the purchaser thereof upon payment to the receiver of the minimum price of one dollar and twenty-five cents per acre, or such other price as may have been fixed by law for such lands, together with the usual fees and commissions charged in entry of like lands under the homestead laws. But purchasers at a sale of unentered lands shall have the qualification of homestead entrymen and not more than one hundred and sixty acres of such lands shall be sold to any one purchaser under the provisions of this Act. This limitation shall not apply to sales to the State but shall apply to purchases from the State of unentered lands bid in for the State. Any part of the purchase money arising from the sale of any lands in the manner and for the purposes provided in this Act which shall be in excess of the payments herein required and of the total drainage charges assessed against such lands shall also be paid to the receiver before patent is issued. (35 Stat. 170.)

§ 4975. (Act May 20, 1908, c. 181, § 6.) Patents to purchasers of unpatented lands at sale under act; disposal of excess of sum received over payments required and drainage charges; forfeiture of rights of purchasers on nonpayment, and subrogation thereto of person making payment; disposal of proceeds.

Any unpatented lands sold in the manner and for the purposes mentioned in this Act may be patented to the purchaser thereof at any time after the expiration of the period of redemption provided for in the drainage laws under which it may be sold (there having been no redemption) upon the payment to the receiver of the fees and commissions and the price mentioned in the preceding section, or so much thereof as has not already been paid by the entryman; and if the sum received at any such sale shall be in excess of the payments herein required and of the drainage assessments and costs of the sale, such excess shall be paid to the proper county officer for the benefit of and payment to the entryman. That unless the purchasers of unentered lands shall within ninety days after the sale provided for in section three, pay to the proper receiver the fees, commissions and purchase price to which the United States may be entitled as provided in section five, and unless the purchasers of entered lands shall within ninety days after the right of redemption has expired make like payments as provided for in this section, any person having the qualifications of a homestead entryman may pay to the proper receiver for not more than one hundred and sixty acres of land for which such payment has not been made: First, the unpaid fees, commissions and purchase price to which the United States may then be entitled: and, second, the sum at which the land was sold at the sale for drainage charges, and in addition thereto, if bid in by the State, interest on the amount (2061)
§ 4976  THE PUBLIC LANDS (Tit. 32)

bid by the State at the rate of seven per centum per annum from the date of such sale, and thereupon the person making such payment shall become subrogated to the rights of such purchaser to receive a patent for said land. When any payment is made to effect such subrogation the receiver shall transmit to the treasurer of the county where the land is situated the amount at which the land was sold at the sale for drainage charges together with the interest paid thereon, if any, less any sum in excess of what may be due for such drainage charge, if the land when sold was unentered. (35 Stat. 170.)

§ 4976. (Act May 20, 1908, c. 181, § 7.) Notices required by drainage laws to be delivered to register and receiver and to entrymology of unpatented lands affected; rights of United States and of such entrymology to be heard, etc.

A copy of all notices required by the drainage laws mentioned in this Act to be given to the owners or occupants of lands held in private ownership shall, as soon as such notices issue, be delivered to the register and receiver of the proper district land office in cases where unentered lands are affected thereby and to the entrymology whose unpatented lands are included therein, and the United States and such entrymology shall be given the same rights to be heard by petition, answer, remonstrance, appeal, or otherwise as are given to persons holding lands in private ownership; and all entrymology shall be given the same rights of redemption as are given to the owners of lands held in private ownership. (35 Stat. 171.)

CHAPTER TEN F

Protection of Timber and Depredations

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes R. S. §§ 2458-2463, and subsequent provisions relating to the protection of timber upon the public lands, outside of the national forests, and to the purposes for which and the conditions under which such timber may be cut.

The laws relating to the national forests are set forth post, under Title XXXII A, "The National Forests."

Sec. 4977. Live-oak and red-cedar lands.
4978. Selection of live-oak and red-cedar tracts.
4979. Protection of live-oak and red-cedar timber.
4980. Cutting or destruction of live-oak or red-cedar, penalty.
4981. Vessels employed in carrying away live-oak and red-cedar, forfeiture of.
4982. Clearance of vessels laden with live-oak; prosecution of depredators.
4983. Examination of lands in Florida reserved for naval purposes.

Sec. 4984. Lands no longer needed for naval purposes restored to entry and sale; prior right of settlers to purchase.
4985. Restoration to public domain of certain naval reservations; preference right of entry; certain lands to be disposed of under town-site laws.
4986. Disposition of moneys collected for depredations on public lands.
4987. Seizure of timber cut on public lands to be imported.

(2062)
§ 4977. (R. S. § 2458.) Live-oak and red-cedar lands.

The Secretary of the Navy is authorized, under the direction of the President, to cause such vacant and unappropriated lands of the United States as produce the live-oak and red-cedar timbers to be explored, and selection to be made of such tracts or portions thereof, where the principal growth is of either of such timbers, as in his judgment may be necessary to furnish for the Navy a sufficient supply of the same.


§ 4978. (R. S. § 2459.) Selection of live-oak and red-cedar tracts.

The President is authorized to appoint surveyors of public lands, who shall perform the duties prescribed in the preceding section, and report to him the tracts by them selected, with the boundaries ascertained and accurately designated by actual survey or water-courses; and the tracts of land thus selected with the approbation of the President shall be reserved, unless otherwise directed by law, from any future sale of the public lands, and be appropriated to the sole purpose of supplying timber for the Navy of the United States; but nothing in this section contained shall be construed to prejudice the prior rights of any person claiming lands, which may be reserved in the manner herein provided.

Act March 1, 1817, c. 22, § 1, 3 Stat. 347.

§ 4979. (R. S. § 2460.) Protection of live-oak and red-cedar timber.

The President is authorized to employ so much of the land and naval forces of the United States as may be necessary effectually to prevent the felling, cutting down, or other destruction of the timber of the United States in Florida, and to prevent the transportation or carrying away any such timber as may be already felled or cut down; and to take such other and further measures as may be deemed advisable for the preservation of the timber of the United States in Florida.

Act Feb. 23, 1822, c. 9, 3 Stat. 651.

§ 4980. (R. S. § 2461.) Cutting or destruction of live-oak or red-cedar, penalty.

If any person shall cut, or cause or procure to be cut, or aid, (2063)
assist, or be employed in cutting, or shall wantonly destroy, or cause or procure to be wantonly destroyed, or aid, assist, or be employed in wantonly destroying any live-oak or red-cedar trees, or other timber standing, growing, or being on any lands of the United States, which, in pursuance of any law passed, or hereafter to be passed, have been reserved or purchased for the use of the United States, for supplying or furnishing therefrom timber for the Navy of the United States; or if any person shall remove, or cause or procure to be removed, or aid, or assist, or be employed in removing from any such lands which have been reserved or purchased, any live-oak or red-cedar trees, or other timber, unless duly authorized so to do, by order, in writing, of a competent officer, and for the use of the Navy of the United States; or if any person shall cut, or cause or procure to be cut, or aid, or assist, or be employed in cutting any live-oak or red-cedar trees, or other timber on, or shall remove, or cause or procure to be removed, or aid, or assist, or be employed in removing any live-oak or red-cedar trees or other timber, from any other lands of the United States, acquired, or hereafter to be acquired, with intent to export, dispose of, use, or employ the same in any manner whatsoever, other than for the use of the Navy of the United States; every such person shall pay a fine not less than triple the value of the trees or timber so cut, destroyed, or removed, and shall be imprisoned not exceeding twelve months.

Act March 2, 1831, c. 66, § 1, 4 Stat. 472.
See notes to Rev. St. § 2463, post, § 4982.

§ 4981. (R. S. § 2462.) Vessels employed in carrying away live-oak and red-cedar, forfeiture of.

If the master, owner, or consignee of any vessel shall knowingly take on board any timber cut on lands which have been reserved or purchased as in the preceding section prescribed, without proper authority, and for the use of the Navy of the United States; or shall take on board any live-oak or red-cedar timber cut on any other lands of the United States, with intent to transport the same to any port or place within the United States, or to export the same to any foreign country, the vessel on board of which the same shall be taken, transported, or seized, shall, with her tackle, apparel, and furniture, be wholly forfeited to the United States, and the captain or master of such vessel wherein the same was exported to any foreign country against the provisions of this section shall forfeit and pay to the United States a sum not exceeding one thousand dollars.

Act March 2, 1831, c. 66, § 2, 4 Stat. 472.
Any timber cut on the public lands was liable to seizure wherever found if exported from the Territories of the United States, by Act April 30, 1878, c. 70, § 2, post, § 4984.
See, also, notes to Rev. St. § 2463, post, § 4982.

§ 4982. (R. S. § 2463.) Clearance of vessels laden with live-oak: prosecution of depredators.

It shall be the duty of all collectors of the customs within the States of Alabama, Mississippi, Louisiana, and Florida, before allowing a clearance to any vessel laden in whole or in part with live-oak (2064)
timber, to ascertain satisfactorily that such timber was cut from private lands, or, if from public ones, by consent of the Navy Department. And it is also made the duty of all officers of the customs, and of the land officers within those States, to cause prosecutions to be seasonably instituted against all persons known to be guilty of depredations on, or injuries to, the live oak growing on the public lands.

Act March 2, 1833, c. 67, § 3, 4 Stat. 647.

Provisions substantially the same as those of the first part of this section were made by R. S. § 4205, post, § 7796.

The cutting or destruction of timber or trees upon lands of the United States which had been reserved or purchased for any public use was made an offense by Act March 3, 1875, c. 151, 18 Stat. 451, provisions of which were incorporated into the Criminal Code, and which was repealed by section 341 of said Code, post, § 10515.

The penalties recoverable under this and the two preceding sections were to be disposed of, one-half to the informers or captors, and one-half to the Secretary of the Navy for the use of the Navy pension fund, and the Secretary was authorized to remit, in whole or in part, said penalties, by Rev. St. § 4751, which was superseded by Act April 30, 1878, c. 70, § 2, and Act June 3, 1878, c. 151, § 5, post, §§ 4987, 4988.

Provisions for restoration to sale and entry of lands reserved for naval purposes in Florida were made by Act March 3, 1879, c. 189, post, §§ 4983, 4984, and of similar lands in Alabama and Mississippi by Act March 3, 1885, c. 182, post, § 4986.

§ 4983. (Act March 3, 1879, c. 189, § 1.) Examination of lands in Florida reserved for naval purposes.

That the Secretary of the Navy be, and he is hereby, authorized to cause an examination to be made of the condition of all lands in the State of Florida which have been set apart or reserved for naval purposes, excepting the reservation upon which the navy-yard at Pensacola is located, and to ascertain whether or not such reserved lands are or will be of any value to the Government of the United States for naval purposes. (30 Stat. 470.)

This section and the section next following were an act entitled "An act to authorize the Secretary of the Navy to transfer to the Secretary of the Interior, for entry and sale, all lands in the State of Florida not needed for naval purposes."

Section 3 of the act made an appropriation to carry out the provisions of the act.

Similar provisions relating to lands in Alabama and Mississippi were made by Act March 2, 1895, c. 182, post, § 4985.

§ 4984. (Act March 3, 1879, c. 189, § 2.) Lands no longer needed for naval purposes restored to entry and sale; prior right of settlers to purchase.

All of said lands which, in the judgment of the Secretary of the Navy, are no longer required for naval purposes shall, as soon as practicable, be certified by him to the Secretary of the Interior, and be subject to entry and sale in the same manner and under the same conditions as other public lands of the United States: Provided, that all persons who have, in good faith, made improvements on said reserved lands so certified at the time of the passage of this act, and who occupy the same, shall be entitled to purchase the part or parts so occupied or improved by them, not

Comp. St. '13—130 (2065)
§ 4985. (Act March 2, 1895, c. 182.) Restoration to public domain of certain naval reservations; preference right of entry; certain lands to be disposed of under town-site laws.

That the Secretary of the Navy be, and he is hereby, authorized to cause to be certified to the Secretary of the Interior, for restoration to the public domain, the whole or such portion or portions of the several tracts of land in the States of Alabama and Mississippi heretofore set apart and reserved for naval uses as are no longer required for the purposes for which they were reserved, or for any purposes connected with the naval service; and upon such certification the tracts of land described therein shall be duly restored to and become a part of the public lands of the United States and a preference right of entry for a period of six months from the date of this Act shall be given all bona fide settlers who are qualified to enter under the homestead law and have made improvements and are now residing upon any agricultural lands in said reservations, and for a period of six months from the date of settlement when that shall occur after the date of this Act: Provided, That persons who enter under the homestead law shall pay for such lands not less than the value heretofore or hereafter determined by appraisement, nor less than the price of the land at the time of the entry; and such payment may, at the option of the purchaser, be made in five equal installments, at times and at rates of interest to be fixed by the Secretary of the Interior. Provided, That so much of the said lands as are situated on Back Bay, near the city of Biloxi, in the State of Mississippi, shall be disposed of under the town-site law and not as agricultural lands. (28 Stat. 814.)

This was an act entitled “An act to authorize the Secretary of the Navy to certify to the Secretary of the Interior, for restoration to the public domain, lands in the States of Alabama and Mississippi not needed for naval purposes.”

Similar provisions relating to lands in Florida reserved for naval purposes were made by Act March 3, 1879, c. 189, ante, §§ 4983, 4984.

§ 4986. (Act April 30, 1878, c. 76, § 2.) Disposition of moneys collected for depredations on public lands.

All moneys heretofore, and that shall hereafter be, collected for depredations upon the public lands shall be covered into the Treasury of the United States as other moneys received from the sale of public lands. (20 Stat. 46.)

This was a proviso annexed to an appropriation for certain expenses of the General Land Office, in section 2 of the act cited above.

See notes to R. S. § 2463, ante, § 4982.

§ 4987. (Act April 30, 1878, c. 76, § 2.) Seizure of timber cut on public lands to be exported.

If any timber cut on the public lands shall be exported from (2066)
the Territories of the United States, it shall be liable to seizure by United States authority wherever found. (20 Stat. 46.)

This was a further proviso annexed to the same appropriation mentioned in the note to the preceding provision of this act, ante, § 4986.

§ 4988. (Act June 3, 1878, c. 151, § 5.) Relief from prosecutions on payment for timber cut, etc.; repeal.

Any person prosecuted in said States and Territory for violating section two thousand four hundred and sixty-one of the Revised Statutes of the United States who is not prosecuted for cutting timber for export from the United States, may be relieved from further prosecution and liability therefor upon payment, into the court wherein said action is pending, of the sum of two dollars and fifty cents per acre for all lands on which he shall have cut or caused to be cut timber, or removed or caused to be removed the same: Provided, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment; but he shall have the right to purchase the same upon the same terms and conditions as other persons, as provided hereinbefore in this act: And further provided, That all moneys collected under this act shall be covered into the Treasury of the United States. And section four thousand seven hundred and fifty-one of the Revised Statutes is hereby repealed, so far as it relates to the States and Territory herein named. (20 Stat. 90.)

This section was part of an act entitled "An act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," cited above.

The words of this said section, "said States and Territory," refer to the three States and the Territory named in said title of the act. But the act was made applicable to all the public land states, by amendment by Act Aug. 4, 1892, c. 575, § 2, 27 Stat. 546.

Sections 5–8 of this act, as so amended, are set forth ante, §§ 4671–4673.

Section 4 of this act made punishable the cutting, etc., of timber upon the public lands except for the necessary clearing of an agricultural or mining claim, or for improvements thereon, or for the use of the United States. It was superseded by similar provisions contained in Crim. Code, § 49, post, § 10216.

Section 6 of the act repealed all acts, etc., inconsistent with the provisions of this act.

All citizens of the United States, and other persons, bona fide residents of Colorado, Nevada, New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States, were authorized to cut, for building, agricultural, mining, or other domestic purposes, any timber growing on the public lands, said lands being mineral, and not subject to entry under laws other than the mining laws, by Act June 3, 1878, c. 150, post, §§ 4989–4991. See, also, Act March 3, 1891, c. 561, § 8 (as amended by Act March 3, 1891, c. 559, Act Feb. 13, 1893, c. 103, Act March 3, 1901, c. 855, Act July 1, 1898, c. 546, § 1, and Act March 3, 1901, c. 862, post, §§ 4992–4996.

R. S. § 4751, mentioned and repealed in part by this section, provided that all penalties and forfeitures incurred under the provisions of R. S. §§ 2461–2465, ante, §§ 4980–4982, should be sued for, recovered, distributed, and accounted for under the direction of the Secretary of the Navy, and should be paid, one-half to the informers or captors, where seized, and one-half to the Secretary of the Navy for the use of the Navy pension fund, and authorized the Secretary to mitigate, in whole or in part, any fine, forfeiture, or penalty so incurred. Act April 30, 1878, c. 75, § 2, ante, § 4985, provided that all

(2067)
moneys heretofore and hereafter collected for depredations upon the public lands should be covered into the Treasury of the United States, as other moneys received from the sale of public lands, thus superseding R. S. § 4751. This Act (Act June 8, 1878, c. 151) being applicable to all the public land states, R. S. § 4751, was repealed thereby as to all of said states.

The use of earth, stone, and timber from the public lands in the construction of irrigation works under the Reclamation Act of June 17, 1902, c. 1063, ante, §§ 4700–4708, was authorized by Act Feb. 8, 1905, c. 552, ante, § 4741.

An act punishing the cutting, chipping, or boxing of trees on the public lands, etc., Act June 4, 1906, c. 2571, 34 Stat. 206, was incorporated in the Criminal Code, in section 51 thereof, post, § 10218, and was repealed by section 941 of said Code, post, § 10615.

Appropriations for expenses of protecting timber on the public lands, etc., are made in the annual sundry civil appropriation acts. The provision for the fiscal year 1914 was by Act June 23, 1913, c. 3, § 1, 38 Stat. 45.

Provisions for the sale of the mature living and dead and down timber on unallotted lands of any Indian reservation, and of the timber on any Indian allotment held under a trust or other patent containing restrictions on alienations were made by Act June 26, 1910, c. 431, §§ 7, 8, ante, §§ 4230, 4231.

The sale of timber upon the public lands, destroyed or damaged by forest fires, was authorized by Act March 4, 1913, c. 165, post, §§ 4905, 4906.

Setting on fire any timber, underbrush, or grass on the public domain, or leaving a fire to burn unattended near any inflammable material, or failing to extinguish a fire built near inflammable material upon the public domain, was made punishable by Act Feb. 24, 1897, c. 313, 29 Stat. 594, as amended by Act May 5, 1900, c. 349, 31 Stat. 169. These provisions were incorporated in Crim. Code, §§ 52–54, post, §§ 10219–10221, and the act as amended was repealed by Crim. Code, § 341, post, § 10615.

§ 4989. (Act June 3, 1878, c. 150, § 1.) Timber on certain mineral lands may be cut for certain purposes.

All citizens of the United States and other persons, bona fide residents of the State of Colorado, or Nevada, or either of [the Territories of] New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time bona-fide residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: Provided, the provisions of this act shall not extend to railroad corporations. (20 Stat. 88.)

This section and the two sections next following were an act entitled “An act authorizing the citizens of Colorado, Nevada and the Territories to fell and remove timber on the public domain for mining and domestic purposes.” The words “the Territories of,” inclosed in brackets in this section, were superseded by the admission of the several Territories named into the Union as States, as follows: Montana and North and South Dakota, by Act Feb. 22, 1889, c. 180, 25 Stat. 676; Idaho, by Act July 3, 1890, c. 556, 26 Stat. 215; Wyoming, by Act July 10, 1890, c. 604, 26 Stat. 222; Utah, by Act July 16, 1894, c. 138, 28 Stat. 107; and New Mexico and Arizona, by Act June 20, 1910, c. 819, 36 Stat. 557, and Res. Aug. 21, 1911, No. 6, 37 Stat. 39. (2008)
§ 4990. (Act June 3, 1878, c. 150, § 2.) Registers and receivers to notify Commissioner of General Land Office of unlawful cutting of timber.

It shall be the duty of the register and the receiver of any local land-office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purposes authorized by this act, within their respective land districts; and, if so, they shall immediately notify the Commissioner of the General Land Office of that fact; and all necessary expenses incurred in making such proper examinations shall be paid and allowed such register and receiver in making up their next quarterly accounts. (20 Stat. 88.)

§ 4991. (Act June 3, 1878, c. 150, § 3.) Violations of act punishable.

Any person or persons who shall violate the provisions of this act, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months. (20 Stat. 89.)


In the States of Colorado, Montana, Idaho, North Dakota, and South Dakota, Wyoming, New Mexico and Arizona, and [the District of] Alaska, and the gold and silver regions of Nevada, California, Oregon, and Washington and [the Territory of] Utah in any criminal prosecution or civil action by the United States for a trespass on such public timber lands or to recover timber or lumber cut thereon it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber lands for use in such State or Territory by a resident thereof for agricultural, mining, manufacturing, or domestic purposes under rules and regulations made and prescribed by the Secretary of the Interior and has not been transported out of the same, but nothing herein contained shall operate to enlarge the rights of any railway company to cut timber on the public domain, Provided that the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this act, and he may designate the sections or tracts of land where timber may be cut, and it shall not be lawful to cut or remove any timber except as may be prescribed by such rules and regulations, but this act shall not operate to repeal the act of June third, eighteen hundred and seventy-eight, providing for the cutting of timber on mineral lands. (26 Stat. 1099. 26 Stat. 1093. 27 Stat. 444. 31 Stat. 1436.)

The portion of this section set forth here, as originally enacted, was as follows:

"And in the States of Colorado, Montana, Idaho, North Dakota and South (2069)
Dakota, Wyoming, and in the District of Alaska and the gold and silver regions of Nevada, and the Territory of Utah, in any criminal prosecution or civil action by the United States for a trespass on such public timber lands or to recover timber or lumber cut thereon, it shall be a defense if the defendant shall show that the said timber was so cut or removed from the timber lands for use in such State or Territory by a resident thereof for agricultural, mining, manufacturing, or domestic purposes, and has not been transported out of the same; but nothing herein contained shall apply to operate to enlarge the rights of any railway company to cut timber on the public domain: Provided, That the Secretary of the Interior may make suitable rules and regulations to carry out the provisions of this section."

It was amended to read as set forth here by Act March 3, 1891, c. 559, cited above, except that after the word "Wyoming," the words "New Mexico and Arizona," were inserted by Act Feb. 13, 1893, c. 103, and after the word "Nevada," the words "California, Oregon, and Washington" were inserted by Act March 3, 1901, c. 855, last cited above.

The section was further amended by Act July 1, 1898, c. 546, § 1, and Act March 3, 1901, c. 862, post. §§ 4903, 4904.

The portion of the section omitted here prescribed the time within which suits by the United States to annul patents should be brought, and is set forth post, §§ 5114.

The words "the District of," inclosed in brackets in this section, were superseded by the organization of Alaska as a Territory by Act Aug. 24, 1812, c. 387, ante, §§ 3229-3244.

The words "The Territory of," also inclosed in brackets in this section, were superseded by the admission of Utah into the Union by Act July 18, 1894, c. 128, 28 Stat. 107.

The cutting of timber on the public mineral lands in Colorado, Nevada, New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, Montana, and all other mineral districts of the United States for certain purposes was permitted by Act June 5, 1878, c. 150, ante, §§ 4989-4991.

§ 4993. (Act July 1, 1898, c. 546, § 1.) Removal of timber cut in Wyoming to Idaho.

That section eight of an Act entitled "An Act to repeal the timber culture laws, and for other purposes," approved March third, eighteen hundred and ninety-one, be, and the same is hereby, amended as follows:

That it shall be lawful for the Secretary of the Interior to grant permits, under the provisions of the eighth section of the Act of March third, eighteen hundred and ninety-one, to citizens of Idaho and Wyoming to cut timber in the State of Wyoming west of the continental divide, on the Snake River and its tributaries to the boundary line of Idaho for agricultural, mining, or other domestic purposes, and to remove the timber so cut to the State of Idaho. (30 Stat. 618.)

This was a provision of the sundry civil appropriation act for the fiscal year 1890, cited above.

Act March 3, 1891, c. 561, § 8, mentioned as amended by this provision, is set forth ante, §§ 4992.

§ 4994. (Act March 3, 1901, c. 862.) Limitations of use of timber taken from public lands not to apply to certain territory.

The provisions of chapter five hundred and fifty-nine of the Revised Statutes of the United States, approved March third, eighteen hundred and ninety-one, limiting the use of timber taken from public lands to residents of the State in which such timber is found, for use within said State, shall not apply to the south slope...
of Pryor Mountains, in the State of Montana, lying south of the Crow Reservation, west of the Big Horn River, and east of Sage Creek; but within the above-described boundaries the provisions of said chapter shall apply equally to the residents of the States of Wyoming and Montana, and to the use of timber taken from the above-described tract in either of the above-named States. (31 Stat. 1439.)

This was an act entitled "An act to amend chapter five hundred and fifty-nine of the Revised Statutes of the United States, approved March third, eighteen hundred and ninety-one."

Act March 3, 1891, c. 559, mentioned in this act, amended Act March 3, 1891, c. 561, § 8, set forth ante, § 4992.

§ 4995. (Act March 4, 1913, c. 165, § 1.) Sale of timber killed or damaged by forest fires; proceeds of sales of damaged timber upon existing claims.

The Secretary of the Interior is hereby authorized, under such rules as he may prescribe, to sell and dispose of to the highest bidder at public auction, or through sealed bids, the timber on any lands of the United States, outside the boundaries of national forests, including those embraced in unperfected claims under any of the public land laws, also upon the ceded Indian lands, that may have been killed or seriously and permanently damaged by forest fires prior to the passage of this Act, the proceeds of all such sales to be covered into the Treasury of the United States: Provided, That the damaged timber upon any lands embraced in an existing claim shall be disposed of only upon the application or with the written consent of such claimant, and the money received from the sale of damaged timber on any such lands shall be kept in a special fund to await the final determination of such claim. (37 Stat. 1015.)

This section and the section next following were an act entitled, "An act to authorize the sale of burnt timber on the public domain."

§ 4996. (Act March 4, 1913, c. 165, § 2.) Disposal of proceeds of sale of burnt timber upon existing claim where claim is patented; disposal of proceeds where claim is rejected.

Upon the certification of the Secretary of the Interior that any such claim has been finally approved and patented the Secretary of the Treasury is hereby authorized and directed to pay to such claimant, his heirs or legal representatives, the money received from the sale of the damaged timber upon his land, after deducting therefrom the expenses of the sale; and upon the certification of the Secretary of the Interior that any such claim has been finally rejected and canceled the Secretary of the Treasury is hereby authorized and directed to transfer the money derived from the sale of the damaged timber upon the lands embraced in such claim to the general fund in the Treasury derived from the sale of public lands, unless by legislation the lands from which the timber had been removed had been theretofore appropriated to the benefit of an Indian tribe or otherwise, in which event the
§ 4997. Inclosure of or assertion of right to public lands without title.

All inclosures of any public lands in any State or Territory of the United States, heretofore or to be hereafter made, erected, or constructed by any person, party, association, or corporation, to any of which land included within the inclosure the person, party, association, or corporation making or controlling the inclosure had no claim or color of title made or acquired in good faith, or an asserted right thereto by or under claim, made in good faith with a view to entry thereof at the proper land-office under the general laws of the United States at the time any such inclosure was or shall be made, are hereby declared to be unlawful, and the maintenance, erection, construction, or control of any such inclosure is hereby forbidden and prohibited; and the assertion of a right to the exclusive use and occupancy of any part of the public lands of the United States in any State or any of the Territories of the United States, without claim, color of title, or asserted right as above specified as to inclosure, is likewise declared unlawful, and hereby prohibited. (23 Stat. 321.)

This was the first section of an act entitled "An act to prevent unlawful occupancy of the public lands."

Sections 2-8 of the act are set forth post, §§ 4998-5002.
Section 7 of the act related to pending suits and is omitted as temporary merely.

§ 4998. Suits for violations of preceding section.

It shall be the duty of the district attorney of the United States for the proper district, on affidavit filed with him by any citizen of the United States that section one of this act is being violated showing a description of the land inclosed with reasonable cer-
tainty, not necessarily by metes and bounds nor by Governmental sub-divisions of surveyed lands, but only so that the inclosure may be identified, and the persons guilty of the violation as nearly as may be, and by description, if the name cannot on reasonable inquiry be ascertained, to institute a civil suit in the proper United States district [or circuit] court, or territorial district court, in the name of the United States, and against the parties named or described who shall be in charge of or controlling the inclosure complained of as defendants; and jurisdiction is also hereby conferred on any United States district [or circuit] court or territorial district court having jurisdiction over the locality where the land inclosed, or any part thereof, shall be situated, to hear and determine proceedings in equity, by writ of injunction, to restrain violations of the provisions of this act; and it shall be sufficient to give the court jurisdiction if service of original process be had in any civil proceeding on any agent or employee having charge or control of the inclosure; and any suit brought under the provisions of this section shall have precedence for hearing and trial over other cases on the civil docket of the court, and shall be tried and determined at the earliest practicable day. In any case if the inclosure shall be found to be unlawful, the court shall make the proper order, judgment, or decree for the destruction of the inclosure, in a summary way, unless the inclosure shall be removed by the defendant within five days after the order of the court. (23 Stat. 321.)

The words "or circuit," inclosed in brackets in this section, were superseded by the abolition of the circuit courts and the transfer of their powers and duties to the district courts, by Jud. Code, §§ 289–291, ante, §§ 1266–1268.

§ 4999. (Act Feb. 25, 1885, c. 149, § 3.) Obstruction of settlement on or transit over public lands.

No person, by force, threats, intimidation, or by any fencing or inclosing, or any other unlawful means, shall prevent or obstruct, or shall combine and confederate with others to prevent or obstruct, any person from peaceably entering upon or establishing a settlement or residence on any tract of public land subject to settlement or entry under the public land laws of the United States, or shall prevent or obstruct free passage or transit over or through the public lands: Provided, This section shall not be held to affect the right or title of persons, who have gone upon, improved or occupied said lands under the land laws of the United States, claiming title thereto, in good faith. (23 Stat. 322.)

§ 5000. (Act Feb. 25, 1885, c. 149, § 4, as amended, Act March 10, 1908, c. 75.) Violations of act punishable.

Any person violating any of the provisions hereof, whether as owner, part owner, or agent, or who shall aid, abet, counsel, advise, or assist in any violation hereof, shall be deemed guilty of a misdemeanor and fined in a sum not exceeding one thousand
§ 5000  

THE PUBLIC LANDS  

(dollars or be imprisoned not exceeding one year, or both, for each offense. (23 Stat. 322. 35 Stat. 40.)

The amendment of this section by Act March 10, 1908, c. 75, cited above, consisted in the insertion of the words "or both," after the provisions for fine or imprisonment in the section as originally enacted.

§ 5001. (Act Feb. 25, 1885, c. 149, § 5.) Removal of unlawful inclosures.

The President is hereby authorized to take such measures as shall be necessary to remove and destroy any unlawful inclosure of any of said lands, and to employ civil or military force as may be necessary for that purpose. (23 Stat. 322.)

§ 5002. (Act Feb. 25, 1885, c. 149, § 6.) Permission from Secretary of Interior to bring suits for unlawful inclosures.

Where the alleged unlawful inclosure includes less than one hundred and sixty acres of land, no suit shall be brought under the provisions of this act without authority from the Secretary of the Interior. (23 Stat. 322.)

CHAPTER TEN H

Abandoned Military Reservations

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes Act July 5, 1884, c. 214, 23 Stat. 103, and subsequent provisions of a general and permanent nature relating to the disposal of the lands within abandoned military reservations. Provisions relating to particular reservations, being special and local in their nature are omitted.

§ 5003. (Act July 5, 1884, c. 214, § 1.) Disposition of abandoned and useless military reservations.

Whenever, in the opinion of the President of the United States, the lands, or any portion of them, included within the limits of any military reservation heretofore or hereafter declared, have become or shall become useless for military purposes, he shall (2074)
cause the same or so much thereof as he may designate, to be placed under the control of the Secretary of the Interior for disposition as hereinafter provided, and shall cause to be filed with the Secretary of the Interior a notice thereof. (23 Stat. 103.)

This was the first section of an act entitled "An act to provide for the disposal of abandoned and useless military reservations," cited above.

Sections 2, 3, and 5 of the act are set forth post, §§ 5004-5006.


Section 4 of the act provided for the extension of State, county, and territorial roads across military reservations, and is set forth, ante, § 4920.

The lands already placed in the custody of the Secretary of the Interior under the provisions of this act, the disposal of which had not been provided for by a subsequent act of Congress, which exceeded 5,000 acres in area, except such as had been reserved for some public use, were opened for settlement under the public land laws, and a preference right of entry was given to certain bona fide settlers thereon, without interfering in any manner with the operation of this act upon lands thereafter placed under control of the Secretary of the Interior, by Act Aug. 23, 1884, c. 314, post, §§ 5006, 5010; and the provisions of said Act Aug. 23, 1884, c. 314, were extended to all lands placed under the control of the Secretary of the Interior under any law in force prior to this act, by Act Feb. 15, 1895, c. 92, § 1, post, § 5011.

An appropriation for expenses of survey, appraisal, and sale of abandoned military reservations, transferred to the control of the Secretary of the Interior under the provisions of this act and any law prior thereto, is made by recent sundry civil appropriation acts. The provision for the fiscal year 1814, was by Act June 23, 1813, c. 3, § 1, 38 Stat. 47.

§ 5004. (Act July 5, 1884, c. 214, § 2.) Survey or subdivision of abandoned or useless military reservations; appraisal and sale; rights of settlers.

The Secretary of the Interior may, if in his opinion the public interests so require, cause the said lands, or any part thereof, in such reservations, to be regularly surveyed, or to be subdivided into tracts of less than forty acres each, and into town lots, or either, or both. He shall cause the said lands so surveyed and subdivided, and each tract thereof, to be appraised by three competent and disinterested men to be appointed by him, and who shall, after having each been first duly sworn to impartially and faithfully execute the trust reposed in them, appraise the said lands, subdivisions, and tracts, and each of them and report their proceedings to the Secretary of the Interior for his action thereon. If such appraisal be disapproved, the Secretary of the Interior shall again cause the said lands to be appraised as before provided; and when the appraisal has been approved he shall cause the said lands, subdivisions, and lots to be sold at public sale, to the highest bidder for cash, at not less than the appraised value thereof, nor less than one dollar and twenty-five cents per acre, first having given not less than sixty days' public notice of the time, place, and terms of sale, immediately prior to such sale, by publication in at least two newspapers having a general circulation in the country or section of county where the lands to be sold are situate; and any lands, subdivisions, or lots remaining unsold may be reoffered for sale at any subsequent time in the same manner, at the discretion of the
§ 5004. THE PUBLIC LANDS

Secretary of the Interior; and if not sold at such second offering for want of bidders, then the Secretary of the Interior may sell the same at private sale, for cash, at not less than the appraised value, nor less than one dollar and twenty-five cents per acre: Provided, That any settler who was in actual occupation of any portion of any such reservations prior to the location of such reservation, or settled thereon prior to January first, eighteen hundred and eighty-four, in good faith for the purpose of securing a home and of entering the same under the general laws and has continued in such occupation to the present time, and is by law entitled to make a homestead entry shall be entitled to enter the land so occupied, not exceeding one hundred and sixty acres in a body, according to the Government surveys and subdivisions: Provided further, That said lands were subject to entry under the public land laws at the time of their withdrawal: And provided further, That all patents heretofore issued, and approved State selections, covering any lands within the old Fort Lyon Military Reservation, in the State of Colorado, declared by executive order of August eighth, eighteen hundred and sixty-three, are hereby confirmed; and the rights of all entrymen and settlers on said reservation to acquire title under the homestead, pre-emption, or timber culture laws are hereby recognized and affirmed to the extent they would have attached had public lands been settled upon or entered; and such portions of said reservation as shall not have been entered or settled upon as aforesaid shall be disposed of by the Secretary of the Interior under the provisions of this act, including lands that may be abandoned by settlers or entrymen.

(23 Stat. 103.)

The public sale of abandoned military reservations was excepted from the provisions of the act discontinuing the sale of public lands at public sale. Act March 3, 1881, c. 561, § 9, ante, § 4753.

Private entry on public lands, except in Missouri, was suspended by Act March 2, 1889, c. 881, § 1, ante, § 4700. Section 8 of said act, ante, § 4762, however, excepted from the operation thereof the provisions of this act.

§ 5005. (Act July 5, 1884, c. 214, § 3.) Appraisal and sale of buildings, etc., on reservations.

The Secretary of the Interior shall cause any improvements, buildings, building materials, and other property which may be situate upon any such lands, subdivisions or lots not heretofore sold by the United States authorities, to be appraised in the same manner as hereinbefore provided for the appraisements of such lands, subdivisions, and lots, and shall cause the same, together with the tract or lot upon which they are situate, to be sold at public sale, to the highest bidder for cash, at not less than the appraised value of such land and improvements, first giving the sixty days' notice as hereinbefore provided; or he may, in his discretion, cause the improvements to be sold separately, at public sale for cash, at not less than the appraised value, to be removed by the purchaser within such time as may be prescribed, first giving the sixty days' public notice before provided; and if in any case the lands and improvements, or the improvements separately, as the case may be, are not sold for want of bidders, then the Secretary of the Interior may, in

(2076)
his discretion, cause the same to be reoffered for sale, at any subsequent time, in the same manner as above provided, or may cause the same to be sold at private sale for not less than the appraised value: Provided, That where buildings or improvements have been heretofore sold by the United States authorities the land upon which such buildings or improvements are situate not exceeding the smallest subdivision or lot provided for by this act upon the reservation on which said buildings are situate shall be offered for sale to the purchaser of said improvements and buildings at the appraised value of the lands and if said purchaser shall fail for sixty days after notice to complete said purchase of lands the same shall be sold under the provisions of this act: And provided further That the proceeds of the military reservation lands sold on Bois Blanc Island near to Fort Mackinaw military reservation shall be set apart as a separate fund for the improvement of the National Park on the Island of Mackinaw Michigan under the direction of the Secretary of War. (23 Stat. 103.)

See note to sections 1 and 2 of this act, ante, §§ 5003, 5004.

The National Park on Mackinaw Island was established by Act March 3, 1875, c. 191, 18 Stat. 517.

§ 5006. (Act July 5, 1884, c. 214, § 5.) Disposition of mineral lands on reservations.

Whenever any lands containing valuable mineral deposits shall be vacated by the reduction or abandonment of any military reservation under the provisions of this act, the same shall be disposed of exclusively under the mineral land laws of the United States. (23 Stat. 104.)

The mineral land laws are contained in chapter 6 of this Title.

See notes to section 1 of this act, ante, § 5003.

§ 5007. (Act Oct. 1, 1890, c. 1239.) Abandoned military reservations in Nevada; entry on under homestead laws only.

That all the agricultural lands embraced within the military reservations in the State of Nevada which have been placed under the control of the Secretary of the Interior for disposition be disposed of under the homestead laws, and not otherwise. (26 Stat. 561.)

This was an act entitled “An act to open abandoned military reservations in the State of Nevada to homestead entry.”

§ 5008. (Act March 3, 1893, c. 208, § 1.) Grants of not to exceed 20 acres of abandoned military reservations to municipal corporations.

The President is hereby authorized by proclamation to withhold from sale and grant for public use to the municipal corporation in which the same is situated all or any portion of any abandoned military reservation not exceeding twenty acres in one place. (27 Stat. 593.)

This was a proviso annexed to an appropriation for survey, etc., of abandoned military reservations in the sundry civil appropriation act for the fiscal year 1894, cited above.

(2077)
§ 5009. (Act Aug. 23, 1894, c. 314, § 1.) Lands within abandoned military reservations opened to settlement; preference right of entry.

All lands not already disposed of included within the limits of any abandoned military reservation heretofore placed under the control of the Secretary of the Interior for disposition under the Act approved July fifth, eighteen hundred and eighty-four, the disposal of which has not been provided for by a subsequent Act of Congress, where the area exceeds five thousand acres, except such legal subdivisions as have Government improvements thereon, and except also such other parts as are now or may be reserved for some public use, are hereby opened to settlement under the public-land laws of the United States, and a preference right of entry for a period of six months from the date of this Act shall be given all bona fide settlers who are qualified to enter under the homestead law and have made improvements and are now residing upon any agricultural lands in said reservations, and for a period of six months from the date of settlement when that shall occur after the date of this Act: Provided, That persons who enter under the homestead law shall pay for such lands not less than the value hereof or hereafter determined by appraisement, nor less than the price of the land at the time of the entry, and such payment may, at the option of the purchaser, be made in five equal installments, at times and at rates of interest to be fixed by the Secretary of the Interior. (28 Stat. 491.)

This section and the section next following were an act entitled "An act to provide for the opening of certain abandoned military reservations, and for other purposes."

Act July 5, 1894, c. 214, mentioned in this section is set forth ante, §§ 5003-5006.

This act was amended and its provisions extended by Act Feb. 15, 1895, c. 92, § 1, post, § 5011.

§ 5010. (Act Aug. 23, 1894, c. 314, § 2.) Operation of previous act on reservations afterward placed under control of Secretary of Interior not affected by act; mode of appraisal.

Nothing contained in this Act shall be construed to suspend or to interfere with the operation of the said Act approved July fifth, eighteen hundred and eighty-four, as to all lands included in abandoned military reservations hereafter placed under the control of the Secretary of the Interior for disposal, and all appraisements required by the first section of this Act shall be in accordance with the provisions of said Act of July fifth, eighteen hundred and eighty-four. (28 Stat. 491.)

See note to preceding section of this act, ante, § 5009.

§ 5011. (Act Feb. 15, 1895, c. 92, § 1.) Lands within abandoned military reservations opened to settlement.

The provisions of the Act approved August twenty-third, eighteen hundred and ninety-four, entitled "An Act to provide for the opening of certain abandoned military reservations, and for other purposes," are hereby extended to all abandoned military reserva-
tions which were placed under the control of the Secretary of the Interior under any law in force prior to the Act of July fifth, eighteen hundred and eighty-four. (28 Stat. 664.)

This was the first section of an act entitled "An act to amend and extend the provisions of an act entitled 'An act to provide for the opening of certain abandoned military reservations, and for other purposes,' approved August twenty-third, eighteen hundred and ninety four."

Section 2 of the act extended the preference right of entry given to actual settlers by the act thereby amended for six months from the date of the amendatory act.

Act July 5, 1894, c. 214, and Act Aug. 23, 1894, c. 314, mentioned in this section, are set forth ante, §§ 5008-5006, 5009, 5010.

§ 5012. (Act Feb. 11, 1903, c. 543.) Selections by states in lieu of school sections in abandoned military reservations, confirmed; disposal of such school sections.

All State school indemnity selections in lieu of what are known as school sections in abandoned military reservations made pursuant to the decision of the Secretary of the Interior dated January twenty-eighth, eighteen hundred and ninety-eight, and before notice of the withdrawal of that decision was received at the local land office at which the selections were made, and which are otherwise regular and free from any prior lawful claim, shall be confirmed by the Secretary of the Interior; and the lands in such school sections in lieu of which such confirmed selections were made shall be disposed of under the laws applicable to other lands in such abandoned military reservations, a preference right being accorded to those who have made and maintained a bona fide settlement or entry pursuant to said decision of the Secretary of the Interior. (32 Stat. 822.)

This was an act entitled "An act adjusting certain conflicts respecting State school indemnity selections in lieu of school sections in abandoned military reservations."

General provisions for selections by States in lieu of school lands, supply deficiencies thereof, are contained in R. S. §§ 2275, 2276, ante, §§ 4860, 4861.

Special provisions for opening to homestead entry the lands embraced in the abandoned Fort Lyon, the Old Fort Lyon, and the Pagosa Springs Military Reservations, in Colorado, were contained in Act Oct. 1, 1900, c. 1240, 26 Stat. 551.

The undisposed of public lands in the abandoned Fort Buford Military Reservation in North Dakota and Montana were made subject to disposal under the homestead, town-site and desert-land laws by Act May 19, 1900, c. 484, 31 Stat. 190.

Each homestead entryman on lands in the abandoned Fort Fetterman Military Reservation, in Wyoming, was given the right to purchase not more than one quarter section of the public lands on that reservation for pasture or grazing land, by Act March 3, 1901, c. 833, 31 Stat. 1086.

A similar right was given to homesteaders on the abandoned Fort Bridger, Fort Sanders, or Fort Laramie Military Reservations, or the abandoned Fort Laramie Wood Reservation, by Act May 31, 1902, c. 945, 32 Stat. 283.

Provisions for the reappraisal and sale of the lands, formerly in the abandoned Walla Walla Military Reservation in Washington, then remaining undisposed of, were contained in Act April 22, 1904, c. 1415, 33 Stat. 248.

Homestead entrymen upon the lands of the abandoned Fort Abraham Lincoln Military Reservation in North Dakota were entitled to a patent therefor.
§ 5012 THE PUBLIC LANDS (Tit. 32)

upon compliance with the homestead laws without paying the appraised value, by Act April 23, 1904, c. 1496, 33 Stat. 306.

Provisions for the disposal of the unsold lots in the abandoned Fort Crawford Military Reservation, in Wisconsin, giving occupants and settlers a preference right of purchase, were contained in Act April 25, 1904, c. 1009, 33 Stat. 306.

The Secretary of the Interior was authorized to dispose of the lands in the abandoned Fort Shaw Military Reservation, in Montana, under the provisions of the public land laws, by Act June 9, 1906, c. 3086, 34 Stat. 229.

The laws for the disposal of the public lands were extended to lands in the abandoned Fort Crittenden Military Reservation, in Utah, and homestead entries upon the abandoned Fort Rice Military Reservation, in North Dakota, were entitled to patent upon compliance with the homestead laws without paying the appraised value of the lands, by Act June 30, 1906, c. 3931, 34 Stat. 808.

Ports of the lands of the abandoned Fort Sheridan Military Reservation and the abandoned Fort McPherson Military Reservation, which had become subject to homestead entry were exempted from the payment of the appraised values, by Act May 29, 1908, c. 220, § 8, 35 Stat. 467.

The Carey Act, Act Aug. 18, 1894, c. 301, § 4, was extended to lands in the former Fort Bridger Military Reservation, in Wyoming, by Act Feb. 10, 1911, c. 90, 36 Stat. 913.

The Secretary of the Interior was authorized to sell the lands, buildings, and other appurtenances of the old Fort Spokane Military Reservation, then used for Indian school purposes, by Act March 3, 1911, c. 210, 38 Stat. 1075.

The unreserved lands within the former Fort Niobrara Military Reservation, in Nebraska, except certain portions granted to the State, the City of Valentine, and certain individuals, were made subject to homestead entry by Act Jan. 27, 1913, c. 14, 37 Stat. 651.

CHAPTER TEN I

Ceded Indian Reservations

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes those acts of Congress which were of general application to ceded Indian reservations and lands. The agreements with the Indians of various tribes or nations for the purchase or cession of all or parts of their lands, the acts of Congress ratifying the agreements or treaties, making appropriations for payment to the Indians therefor, providing for the allotment to the Indians of the lands reserved from the cessions, providing for the disposition of the remainder under the public land laws, including the homestead, town-site, and desert-land laws, and authorizing new agreements looking to the cession of other lands, and the proclamations of the President opening said lands to settlers, being special and local, inasmuch as they each related to some particular tract of land belonging to some particular tribe or nation of Indians, are omitted. The general policy observed throughout in the acquisition and disposition of these lands was the same, the differences being mainly in the minor details incident to their disposition, principally under the homestead laws, such as regards the time of entry, persons who might enter, number of acres which they might enter, prices to be paid, right to commute, etc. In the case of entries under the homestead laws, where any of the provisions of the general laws have been expressly declared inapplicable to said entries that fact has been noted under the proper section in the chapter relating to homesteads—Chapter 5 of this Title.

(2080)
§ 5013. (Act May 17, 1900, c. 479, § 1.) Free homesteads to settlers on Indian lands acquired and opened to settlement; commutation rights; payments to Indians.

All settlers under the homestead laws of the United States upon the agricultural public lands, which have already been opened to settlement, acquired prior to the passage of this Act by treaty or agreement from the various Indian tribes, who have resided or shall hereafter reside upon the tract entered in good faith for the period required by existing law, shall be entitled to a patent for the land so entered upon the payment to the local land officers of the usual and customary fees, and no other or further charge of any kind whatsoever shall be required from such settler to entitle him to a patent for the land covered by his entry: Provided, That the right to commute any such entry and pay for said lands in the option of any such settler and in the time and at the prices now fixed by existing laws shall remain in full force and effect: Provided, however, That all sums of money so released which if not released would belong to any Indian tribe shall be paid to such Indian tribe by the United States, and that in the event that the proceeds of the annual sales of the public lands shall not be sufficient to meet the payments heretofore provided for agricultural colleges and experimental stations by an Act of Congress, approved August thirtieth, eighteen hundred and ninety, for the more complete endowment and support of the colleges for the benefit of agricultural and mechanic arts, established under the provisions of an Act of Congress, approved July second, eighteen hundred and sixty-two, such deficiency shall be paid by the United States: And provided further, That no lands shall be herein included on which the United States Government had made valuable improvements, or lands that have been sold at public auction by said Government. (31 Stat. 179.)

This was the first section 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.”

Section 2 of the act repealed all acts and parts of acts in conflict therewith.

Prior to the passage of this act, the acts of Congress ratifying the cessions of Indian lands, and providing for the opening of the lands so ceded, or the proclamations of the President declaring said lands opened to settlement, usually contained provisions that the lands should be opened to settlement under the homestead laws of the United States except that R. S. § 2301, ante, §
§ 5013. The Public Lands

4580, should not be applicable; thus denying to settlers under the acts the right to commute their entries. By the provision in this act, all settlers on Indian lands which were ceded and opened to settlement prior to May 17, 1900, were entitled to commute their entries, in the option of such settlers, in the time and at the prices now fixed by existing laws. It may be doubted whether or not this provision permitted settlers on said lands to commute their entries when the acts under which their entries were made prohibited such commutations. However, by the provisions of Act Jan. 26, 1901, c. 180, post, § 5014, the provisions of R. S. § 2301, ante, § 4580, were extended to all settlers on lands under this act, except that said settlers were required to pay the price provided in the law under which their original entries were made. This supplementary act clearly permitted settlers on said lands to commute their entries, although the laws under which said entries were made forbade such commutations.

The laws authorizing the commutation of homesteads in the Territory of Oklahoma generally were applicable to the commutation of homesteads in Greer county, Okl., by Act Jan. 18, 1897, c. 62, § 7, post, § 5043.

Homestead settlers who, prior to the passage of this act, had acquired title to the land by final entry by payment of the price provided in the law opening the land to settlement, and who would have been entitled to the provisions of the act if final entry had been made prior to its passage, were authorized to make another homestead entry, by Act May 22, 1902, c. 821, § 2, post, § 5015.

The provisions of Act May 2, 1890, c. 182, § 22, post, § 5023, for commutation for town-site purposes of homestead entries in Oklahoma, was made applicable to lands in Oklahoma ceded by certain Indian bands and tribes, by Act March 11, 1902, c. 180, 32 Stat. 63.

Settlers upon all ceded Indian reservations were granted extensions of time in which to make the payments required by law by Act June 10, 1896, c. 398, § 1, 29 Stat. 342, Act June 7, 1897, c. 8, § 1, 30 Stat. 87, and Act May 31, 1900, c. 598, § 1, 31 Stat. 241. Settlers upon all ceded Indian reservations in Minnesota were granted an extension of one year's time in which to make the required payments, by Act June 31, 1906, c. 3504. The extensions granted by all of these acts having expired, and the acts being temporary merely, they are omitted.

§ 5014. (Act Jan. 26, 1901, c. 180.) Commutation by settlers under free homestead law.

The provisions of section twenty-three hundred and one of the Revised Statutes of the United States, as amended, allowing homestead settlers to commute their homestead entries be, and the same hereby are, extended to all homestead settlers affected by or entitled to the benefits of the provisions of the Act entitled “An Act providing for free homesteads on the public lands for actual and bona fide settlers, and reserving the public lands for that purpose,” approved the seventeenth day of May, anno Domini nineteen hundred: Provided, however, That in commuting such entries the entryman shall pay the price provided in the law under which original entry was made. (31 Stat. 740.)

R. S. § 2301, as amended by Act March 3, 1891, c. 561, § 6, 26 Stat. 1005, ante, § 4580, provided that all persons entitled to avail themselves of the provisions of R. S. § 2288, ante, § 4530, might pay the minimum price for the quantity of land entered by them at any time after the expiration of fourteen calendar months from the date of their entry, and obtain a patent therefor, upon making proof of settlement and of residence and cultivation for such period of fourteen months. This act made said section applicable to all settlers on Indian lands ceded and opened to settlement prior to May 17, 1900,
although the acts under which the original entries were made forbade the commutation.

The laws authorizing the commutation of homesteads in the Territory of Oklahoma generally are applicable to the commutation of homesteads in Greer county, Okl., by Act Jan. 18, 1897, c. 62, § 7, post, § 5043.

Homestead settlers on certain ceded Indian lands in South Dakota were to be entitled to the provisions of this act, by Act May 22, 1902, c. 821, § 1, 32 Stat. 203.

§ 5015. (Act May 22, 1902, c. 821, § 2.) Second homestead entry by settlers on ceded Indian lands having made final entry by payment of price before passage of free homestead law.

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. (32 Stat. 203.)

This section was part of an act entitled "An act to allow the commutation of and second homestead entries in certain cases."

Section 1 of the act allowed commutation by homestead entrymen upon the Sioux Indian Reservation in South Dakota.

Act May 17, 1900, c. 479, § 1, mentioned in this section, is ante, § 5013.

§ 5016. (Act March 3, 1901, c. 832, § 1.) Negotiations by Secretary of Interior for cession of Indian lands.

That the Secretary of the Interior be, and he is hereby, authorized, in his discretion, to negotiate, through any United States Indian inspector, agreements with any Indians for the cession to the United States of portions of their respective reservations or surplus unallotted
lands, any agreements thus negotiated to be subject to subsequent ratification by Congress. (31 Stat. 1077.)

This was a provision of the Indian appropriation act for the fiscal year 1902, cited above.

Prior to the passage of this act the President was authorised, on each occasion when it was desired to acquire any lands from particular tribes or nations of Indians, by an act of Congress, to appoint commissioners to negotiate agreements with the Indians for the acquisition of the tracts desired, subject to ratification by Congress.

§ 5017. (Act June 6, 1912, c. 155.) Classification and appraisement of unallotted and unreserved Indian lands authorized.

That the Secretary of the Interior be, and he is hereby, authorized to cause to be classified or reclassified and appraised or reappraised, in such manner as he may deem advisable, the unallotted or otherwise unreserved lands within any Indian reservation opened to settlement and entry but not classified and appraised in the manner provided for in the Act or Acts opening such reservations to settlement and entry, or where the existing classification or appraisement is, in the opinion of the Secretary of the Interior, erroneous. (37 Stat. 125.)

This was an act entitled "An act authorising the Secretary of the Interior to classify and appraise unallotted Indian lands."

§ 5018. (Act March 3, 1891, c. 561, § 10.) Agreements with Indians not to be affected by act.

Nothing in this act shall change, repeal, or modify any agreements or treaties made with any Indian tribes for the disposal of their lands, or of land ceded to the United States to be disposed of for the benefit of such tribes, and the proceeds thereof to be placed in the Treasury of the United States; and the disposition of such lands shall continue in accordance with the provisions of such treaties or agreements; except as provided in section 5 of this act. (26 Stat. 1099.)

This section was part of the act repealing the timber-culture laws. Other sections are set forth or referred to post, § 5116.

§ 5019. (Act Feb. 9, 1903, c. 531.) Town-site laws extended to ceded Indian lands in Minnesota.

Chapter eight, title thirty-two, of the Revised Statutes of the United States, entitled "Reservation and sale of town sites on the public lands," be, and is hereby, extended to and declared to be applicable to ceded Indian lands within the State of Minnesota. This act shall take effect and be in force from and after its passage. (32 Stat. 820.)

This was an act entitled "An act to extend the provisions of chapter eight, title thirty-two, of the Revised Statutes of the United States, entitled 'Reservation and sale of town sites on the public lands,' to the ceded Indian lands in the State of Minnesota."

Chapter 8 of this Title of the Revised Statutes, mentioned in this act, is set forth ante, §§ 4784-4801.

Homestead settlers on ceded Indian reservations in Minnesota are granted an extension of time to make payments for the lands purchased by them, by a provision of Act June 21, 1906, c. 3504, 34 Stat. 326.

Special provisions for opening to settlement relinquished lands of the Walk-
er River Reservation in Nevada were made by Act May 27, 1902, c. 888, 32 Stat. 261.

Special provisions extending the homestead laws to lands included within the former Ute Indian Reservation in Colorado were made by Act June 13, 1902, c. 1080, 32 Stat. 384.

Provisions for opening to homestead entry agricultural lands of the Chippewa Indian Reservation in Minnesota, after the removal of the Merchantable pine timber therefrom, were made by Act June 27, 1902, c. 1157, 32 Stat. 403, and Act May 20, 1908, c. 181, § 8, 35 Stat. 171. Subsequent provisions for offering for sale and disposing of the unsold timber on lands classified as "pine lands," and for opening to homestead settlement such lands on which there is unsold pine timber after such re-offering, were contained in Act June 28, 1910, c. 431, § 27, 36 Stat. 862.

Provisions for the sale, subject to the homestead laws, of part of the Red Lake Reservation in Minnesota, were made by Act Feb. 20, 1904, c. 161, 33 Stat. 46, and the time for payments by homestead settlers thereon was extended by Act March 28, 1910, c. 129, § 1, 36 Stat. 265. Subsequent provisions relating to homestead entries on such lands were made by Act Feb. 18, 1911, c. 91, 36 Stat. 918.

Provisions for patents to settlers under the homestead laws on agricultural public lands in the north one-half of the Colville Indian Reservation in Washington were made by Act Feb. 7, 1905, c. 514, 32 Stat. 803. And the sale and disposition of surplus or unallotted lands in the diminished Colville Reservation was provided for by Act March 22, 1906, c. 1126, 34 Stat. 80.

Provisions making all lands of the former Fort Hall Indian Reservation in Idaho, offered for sale in accordance with Act June 6, 1900, c. 813, 31 Stat. 672, and remaining unsold, subject to entry in accordance with the provisions of section 5 of that act, were made by Act March 30, 1904, c. 554, 33 Stat. 115.

The right was given to the State of South Dakota to select school indemnity or other lands granted to the State in the ceded portion of the Great Sioux Reservation in South Dakota, and the general laws for the disposal of the public lands were extended to and made applicable to said ceded portion of that reservation, by Act March 30, 1904, c. 555, 33 Stat. 154. Commutation by homestead entries upon such lands was allowed by Act May 22, 1902, c. 821, § 1, 32 Stat. 208.

Provisions for the survey and allotment of lands within the limits of the Flathead Indian Reservation in Montana, and the sale and disposal of all surplus lands after allotment, were made by Act April 23, 1904, c. 1495, 33 Stat. 302, amended by Act May 29, 1908, c. 216, § 15, 35 Stat. 443, and Act April 12, 1910, c. 156, 36 Stat. 296, and in Act June 28, 1910, c. 431, § 29, 36 Stat. 863.


The time within which homestead settlers may establish their residence upon certain lands formerly part of the Rosebud Indian Reservation in South Dakota or of the Devils Lake Indian Reservation in North Dakota, was extended by Act Feb. 7, 1905, c. 545, 33 Stat. 700.

Provisions for appraisement and opening to homestead settlement and entry of relinquished and undischarged portions of Round Valley Indian Reservation in California were made by Act Feb. 8, 1905, c. 553, 33 Stat. 706.


Provisions for the sale and disposal under the homestead laws of a portion of (2085)
§ 5019  THE PUBLIC LANDS  (Tit. 32)

the Lower Brule Indian Reservation in South Dakota were made by Act April 21, 1906, c. 1645, 34 Stat. 124.

Provisions for the disposal, under the homestead, mineral and town-site laws, of lands, not allotted or reserved or otherwise disposed of, of the Blackfeet Indian Reservation in Montana, were made by Act March 1, 1907, c. 2255, 34 Stat. 1035-1039.

Provisions for the sale and disposal, under the homestead and town-site laws, of the surplus or unallotted lands of the Rosebud Indian Reservation in South Dakota, were made by Act March 2, 1907, c. 2536, 34 Stat. 1230, and the time for payments by homestead settlers thereon was extended by Act March 26, 1910, c. 129, § 2, 38 Stat. 265, and Act Aug. 17, 1911, c. 22, 37 Stat. 21.

Land in any of several Indian reservations in Minnesota, not included in the National Forest created in that state, classified as agricultural land, was declared open to homestead settlement, and said land classified as timber land was to be open to homestead settlement as soon as the timber was removed therefrom, by Act May 23, 1908, c. 103, § 4, 35 Stat. 272.

Provisions for the sale of certain lands reserved for agency and school purposes in the former Cheyenne and Arapahoe Indian Reservation in Oklahoma were made by Act May 29, 1908, c. 216, § 12, 35 Stat. 447, amended by Act Jan. 31, 1910, c. 21, 36 Stat. 190. Provisions for opening to entry under the homestead laws lands so reserved were made by Act June 17, 1910, c. 299, 36 Stat. 533, and the time for payment thereof was extended by Act Aug. 22, 1911, c. 44, 37 Stat. 33, and by Act Aug. 24, 1912, c. 388, 37 Stat. 530.

Provisions for the sale and disposal of surplus unallotted agricultural lands of the Spokane Indian Reservation in Washington, were made by Act May 29, 1908, c. 217, 35 Stat. 458.

Provisions for the sale and disposal, under the homestead and town-site laws, of a portion of the surplus and unallotted lands in the Cheyenne River and St. Francis Indian Reservations in South Dakota and North Dakota, were made by Act May 29, 1908, c. 218, 35 Stat. 460, amended by Act Feb. 17, 1910, c. 40, 36 Stat. 166, and Act March 26, 1910, c. 129, § 4, 36 Stat. 266.

Provisions for the survey and allotment of lands within the limits of the Fort Peck Indian Reservation in Montana and the sale and disposal of the surplus lands after allotment, were made by Act May 30, 1908, c. 237, 35 Stat. 558.

The time fixed for opening to public entry unallotted lands in the Uintah Reservation in Utah, previously extended by several preceding acts, was further extended by a provision of Act March 3, 1905, c. 1470, 33 Stat. 1069.

Provisions for commutation of homestead entries on said lands were made by Act March 3, 1911, c. 210, 36 Stat. 1074.

The public-land laws were extended to certain territory ten miles square ceded by the Shoshone and Arapahoe Indians, by Act March 19, 1906, c. 901, 34 Stat. 78.

The establishment of town-sites and the sale of lots within the common lands of the Kiowa, Comanche, and Apache Indians in Oklahoma, were authorized by Act March 20, 1906, c. 1125, 34 Stat. 80. And the opening to settlement and disposal of certain lands, previously set apart as grazing land and as a wood reservation, in the Kiowa, Comanche, and Apache Indian reservations in Oklahoma, was provided for by Act June 5, 1906, c. 2580, 34 Stat. 213, and Act June 26, 1906, c. 2581, 34 Stat. 550.

The time within which payments were required by those acts was extended one year by Act March 11, 1908, c. 79, 35 Stat. 41, and further extended by Act March 28, 1910, c. 129, § 3, 38 Stat. 266. And the sale of tracts of land remaining unsold under said Act June 5, 1906, and also under Act June 6, 1900, c. 513, § 6, 31 Stat. 676, is provided for by Act May 29, 1908, c. 216, § 24, 35 Stat. 450.

Provisions for the sale of lands in the Siletz Reservation in Oregon were made by Act May 19, 1910, c. 233, 36 Stat. 307. And provisions for the is-
sue of patents on certain pending homestead entries within said Reservation were made by Act March 4, 1911, c. 272, 36 Stat. 1358.
Provisions for the sale and disposal of surplus and unallotted lands in that portion of the Pine Ridge Indian Reservation in Bennett county, South Dakota, were made by Act May 27, 1910, c. 257, 36 Stat. 440.
Provisions for the sale and disposal of surplus and unallotted lands in that portion of the Rosebud Indian Reservation in Mellette and Washabaugh Counties, South Dakota, were made by Act May 30, 1910, c. 260, 36 Stat. 448.
Provisions for the survey and allotment of lands within the limits of the Fort Berthold Indian Reservation in North Dakota, and the sale and disposal of the surplus lands after allotment, were made by Act June 1, 1910, c. 264, 36 Stat. 455.
The sale for town-site purposes of certain portions of the surplus and unallotted lands in the Cheyenne River Indian Reservation in South Dakota was authorized by Act June 23, 1910, c. 309, 36 Stat. 602.
Section 3 of Act May 1, 1888, c. 213, 25 Stat. 133, providing that certain lands of the Gros Ventre, Piegan, Blood, Blackfoot, and River Crow Reservation in Montana, to which the Indian title was extinguished, should be restored to the public domain, and be open to entry under the homestead laws except R. S. § 2301, ante, § 4589, authorizing commutation, and under other laws specified, was amended, to provide that said lands should be open to the operation of laws regulating the entry, sale, or disposal of the public lands, and previous entries under any of such laws were confirmed, by Act March 3, 1911, c. 218, 36 Stat. 1080.

CHAPTER TEN J
Public Lands in Oklahoma

This chapter, inserted here as additional to the original chapters of Title XXXII of the Revised Statutes, includes the general and permanent provisions relating to the public lands in Oklahoma generally, and to those in Greer County, Oklahoma. Provisions relating to lands ceded by particular Indian tribes are set forth or referred to ante, under chapter 10 I, of this Title, "Ceded Indian Reservations."

Since the Territory of Oklahoma was admitted into the Union as a State by Act June 15, 1907, c. 3335, 34 Stat. 287, the words "Territory," and "Territory," wherever they occur in the acts in this chapter, were superseded thereby, when they have reference to Oklahoma.

Sec. 5020. Homestead entries on Indian lands; soldiers' and sailors' homesteads; reservation of school and missionary lands; rights of railroad corporations.

Sec. 5021. Procedure in applications, entries, etc., in Oklahoma; selections to be in square form; limitation of amount of holding; soldiers' and sailors' homesteads.

Sec. 5022. Patents upon homestead entries on payment at expiration of twelve months after location.

Sec. 5023. Town-site laws made applicable; lands open to entry; reservations for parks, etc.; rights of homestead settlers.

Sec. 5024. Reservations between sections of land in Oklahoma for highway purposes.

Sec. 5025. Fraudulent settlement on lands in Oklahoma; punishment.

Sec. 5026. Rights of occupants not impaired by provisions of act.

Sec. 5027. Non-mineral character of lands in Oklahoma.

Sec. 5028. Division of Oklahoma into counties before opening lands to settlement; reservation of lands for county seats.

Sec. 5029. Entry by trustees.

Sec. 5030. Certificate or other evidence of occupancy.

Sec. 5031. Church lots.

Sec. 5032. Sale or reservation of lots.

(2087)
§ 5020 THE PUBLIC LANDS

5035. Authority, duties, and compensation of trustees.
5036. Town-site laws extended to Cherokee Outlet.
5037. Boards of town-site trustees abolished.
5038. Vacated town-sites; homestead entries; sale.
5039. Vacated town-sites to be sold by towns or as isolated tracts.
5040. Homestead settlers on lands in

Greer county; preference right; purchase of additional lands, rights of settlers' families; effect of death of settler; removal of crops and improvements.
5041. Unoccupied lands subject to entry under homestead laws only.
5042. Town-site entries.
5043. Application of act to Greer county only; repeal; commutation of homesteads.
5044. Right of purchasers from Texas to perfect title under homestead laws notwithstanding previous entries thereunder.

§ 5020. (Act May 2, 1890, c. 182, § 18.) Homestead entries on Indian lands; soldiers’ and sailors’ homesteads; reservation of school and missionary lands; rights of railroad corporations.

Whenever any of the other lands within the Territory of Oklahoma, now occupied by any Indian tribe, shall by operation of law or proclamation of the President of the United States, be open to settlement, they shall be disposed of to actual settlers only, under the provisions of the homestead law, except section twenty-three hundred and one of the Revised Statutes of the United States, which shall not apply: Provided, however, That each settler, under and in accordance with the provisions of said homestead laws, shall before receiving a patent for his homestead pay to the United States for the land so taken by him, in addition to the fees provided by law, a sum per acre equal to the amount which has been or may be paid by the United States to obtain a relinquishment of the Indian title or interest therein, but in no case shall such payment be less than one dollar and twenty-five cents per acre. The rights of honorably discharged soldiers and sailors in the late civil war, as defined and described in sections twenty-three hundred and four and twenty-three hundred and five of the Revised Statutes of the United States, shall not be abridged except as to such payment. All tracts of land in Oklahoma Territory which have been set apart for school purposes, to educational societies, or missionary boards at work among the Indians, shall not be open for settlement, but are hereby granted to the respective educational societies or missionary boards for whose use the same has been set apart. No part of the land embraced within the Territory hereby created shall inure to the use or benefit of any railroad corporation, except the rights of way and land for stations heretofore granted to certain railroad corporations. Nor shall any provision of this act or any act of any officer of the United States, done or performed under the provisions of this act or otherwise, invest any corporation owning or operating any railroad in the Indian Territory, or Territory created by this act, with any land or right to any land in either of said Territories, and this act shall not apply to or affect any land which, upon any
condition on becoming a part of the public domain, would inure to the benefit of, or become the property of, any railroad corporation. (26 Stat. 90.)

These provisions were part of section 18 of an act providing a temporary government for Oklahoma, cited above.

The portion of the section, at the beginning thereof, preceding the part set forth here, provided for reservation of school lands, and for entries under the homestead laws on the "Public Land Strip," and on lands ceded by the Muscogee (or Creek) and Seminole Indians.

Sections 20-24 and 27 of this act are set forth post, §§ 5021-5023. Section 25 excepted Greer county from the provisions of the act. Special provisions applicable only to lands in Greer county are set forth post, §§ 5040-5044.

R. S. § 2301, ante, § 4598, mentioned in this section, provided for the commutation of homestead entries.

All settlers on Indian lands, acquired and opened to settlement prior to May 17, 1901, who reside on their lands the required length of time, are entitled, upon proper proof, to patents therefor upon payment of the land-office fees only, and the right to commute such entries in the time and at the prices fixed by existing laws remains in full force and effect, by Act May 17, 1900, c. 479, § 1, ante, § 5013. The provisions of R. S. § 2301, as amended were extended to all settlers on said lands, by Act Jan. 23, 1901, c. 180, ante, § 5014. Homestead entries by soldiers and sailors were provided for by R. S. §§ 2304, 2305, ante, §§ 4592, 4593.

§ 5021. (Act May 2, 1890, c. 182, § 20.) Procedure in applications, entries, etc., in Oklahoma; selections to be in square form; limitation of amount of holding; soldiers' and sailors' homesteads.

The procedure in applications, entries, contests, and adjudications in the Territory of Oklahoma shall be in form and manner prescribed under the homestead laws of the United States, and the general principles and provisions of the homestead laws, except as modified by the provisions of this act and the acts of Congress approved March first and second, eighteen hundred and eighty-nine, herefore mentioned, shall be applicable to all entries made in said Territory, but no patent shall be issued to any person who is not a citizen of the United States at the time of making final proof. All persons who shall settle on land in said Territory, under the provisions of the homestead laws of the United States, and of this act, shall be required to select the same in square form as nearly as may be; and no person who shall at the time be seized in fee simple of a hundred and sixty acres of land in any State or Territory, shall hereafter be entitled to enter land in said Territory of Oklahoma. The provisions of sections twenty-three hundred and four and twenty three hundred and five of the Revised Statutes of the United States shall, except so far as modified by this act, apply to all homestead settlements in said Territory. (26 Stat. 91.)

See note to section 18 of this act, ante, § 5020.

The acts referred to in this section are Act March 1, 1889, c. 317, 25 Stat. 757, which ratified and confirmed an agreement with the Muscogee (or Creek) Indians for the cession of certain of their lands, and provided for homestead entries thereon, and Act March 2, 1889, c. 412, 25 Stat. 1004, which appropriated money for payment to the Seminole Indians for lands ceded by them, and provided for entry thereon under the homestead laws, authorized negotia-
§ 5021

THE PUBLIC LANDS

(tit. 32)

...tions for the cession of lands from the Cherokee Indians, and provided for the opening of said lands, if ceded, for settlement.

The other modifications of the homestead laws mentioned in this section are those which related to entries of special cessions of land. A synopsis of them is given in the note to Act May 17, 1890, c. 479, § 1, ante, § 5013.

Soldiers' and sailors' homestead entries were provided for by R. S. §§ 2304, 2305, ante, §§ 4592, 4593.

§ 5022. (Act May 2, 1890, c. 182, § 21.) Patents upon homestead entries on payment at expiration of twelve months after location.

Any person, entitled by law to take a homestead in said Territory of Oklahoma, who has already located and filed upon, or shall hereafter locate and file upon, a homestead within the limits described in the President's proclamation of April first, eighteen hundred and eighty nine, and under and in pursuance of the laws applicable to the settlement of the lands opened for settlement by such proclamation, and who has complied with all the laws relating to such homestead settlement, may receive a patent therefor at the expiration of twelve months from date of locating upon said homestead upon payment to the United States of one dollar and twenty-five cents per acre for land embraced in such homestead. (26 Stat. 91.)

See notes to section 18 of this act, ante, § 5020.


General provisions for commutation of homestead entries on lands acquired from Indian tribes were made by Act May 17, 1900, c. 479, § 1, ante, § 5013.

§ 5023. (Act May 2, 1890, c. 182, § 22.) Town-site laws made applicable; lands open to entry; reservations for parks, etc.; rights of homestead settlers.

The provisions of title thirty-two, chapter eight of the Revised Statutes of the United States relating to "reservation and sale of town sites on the public lands" shall apply to the lands open, or to be opened to settlement in the Territory of Oklahoma, except those opened to settlement by the proclamation of the President on the twenty-second day of April, eighteen hundred and eighty-nine: Provided, That hereafter all surveys for town sites in said Territory shall contain reservations for parks (of substantially equal area if more than one park) and for schools and other public purposes, embracing in the aggregate not less than ten nor more than twenty acres; and patents for such reservations, to be maintained for such purposes, shall be issued to the towns respectively when organized as municipalities: Provided further, That in case any lands in said Territory of Oklahoma, which may be occupied and filed upon as a homestead, under the provisions of law applicable to said Territory, by a person who is entitled to perfect his title thereto under such laws, are required for town site purposes, it shall be lawful for such person to apply to the Secretary of the Interior to purchase the lands (2090)
embraced in said homestead or any part thereof for town-site purposes. He shall file with the application a plat of such proposed town-site, and if such plat shall be approved by the Secretary of the Interior, he shall issue a patent to such person for land embraced in said town site, upon the payment of the sum of ten dollars per acre for all the lands embraced in such town site, except the lands to be donated and maintained for public purposes as provided in this section. And the sums so received by the Secretary of the Interior shall be paid over to the proper authorities of the municipalities when organized, to be used by them for school purposes only. (26 Stat. 91.)

See notes to section 18 of this act, ante, § 5020.

Oklahoma was admitted into the Union as a State by Act June 16, 1906, c. 3235, 34 Stat. 267.
The entry of town-sites in Greer county, Oklahoma, under the provisions of R. S. §§ 2387-2388, was provided for by Act Jan. 18, 1897, c. 62, § 3, post, § 5042.
The provisions of this section for commutation for town-site purposes of homestead entries was made applicable to certain ceded Indian lands in Oklahoma, by Act March 11, 1902, c. 180, 32 Stat. 63.

§ 5024. (Act May 2, 1890, c. 182, § 23.) Reservations between sections of land in Oklahoma for highway purposes.

That there shall be reserved public highways four rods wide between each section of land in said Territory, the section lines being the center of said highways; but no deduction shall be made, where cash payments are provided for, in the amount to be paid for each quarter section of land by reason of such reservation. But if the said highway shall be vacated by any competent authority, the title to the respective strips shall inure to the then owner of the tract of which it formed a part by the original survey. (26 Stat. 92.)

See notes to section 18 of this act, ante, § 5020.

§ 5025. (Act May 2, 1890, c. 182, § 24.) Fraudulent settlement on lands in Oklahoma; punishment.

It shall be unlawful for any person, for himself or any company, association, or corporation, to directly or indirectly procure any person to settle upon any lands open to settlement in the Territory of Oklahoma, with intent thereafter of acquiring title thereto; and any title thus acquired shall be void; and the parties to such fraudulent settlement shall severally be guilty of a misdemeanor, and shall be punished upon indictment, by imprisonment not exceeding twelve months, or by a fine not exceeding one thousand dollars, or by both such fine and imprisonment, in the discretion of the court. (26 Stat. 92.)

See notes to section 18 of this act, ante, § 5020.

§ 5026. (Act May 2, 1890, c. 182, § 27.) Rights of occupants not impaired by provisions of act.

The provisions of this act shall not be so construed as to invalidate or impair any legal claims or rights of persons occupying any portion of said Territory, under the laws of the United States, but such claims shall be adjudicated by the Land Department, or
§ 5026 THE PUBLIC LANDS (Tit. 33)

the courts, in accordance with their respective jurisdictions. (26 Stat. 93.)

See notes to section 18 of this act, ante, § 5020.

§ 5027. (Act March 3, 1891, c. 543, § 16.) Non-mineral character of lands in Oklahoma.

All the lands in Oklahoma are hereby declared to be agricultural lands, and proof of their non-mineral character shall not be required as a condition precedent to final entry. (26 Stat. 1026.)

This was the concluding provision of section 16 of the Indian appropriation act for the fiscal year 1892, cited above.

Said section 16 was one of numerous sections of that act making provisions for carrying into effect certain agreements with particular Indian tribes for cessions of lands, etc.

The preceding portion of this section, omitted here, provided for the opening of certain lands of the Pottawatomie, Shawnee, and Cheyenne and Arapahoe Indians.

The laws relating to mineral lands were extended over certain ceded Indian lands by provisions of Act March 2, 1885, c. 188, 28 Stat. 890, and Act June 6, 1900, c. 818, § 6, 31 Stat. 690. Said provisions are omitted as special and local only.

§ 5028. (Act March 3, 1891, c. 543, § 37.) Division of Oklahoma into counties before opening lands to settlement; reservation of lands for county seats.

Before any lands in Oklahoma are open to settlement it shall be the duty of the Secretary of the Interior to divide the same into counties which shall contain as near as possible not less than seven hundred square miles in each county. * * * Provided further, That as soon as the county lines are designated by the Secretary he shall reserve not to exceed one-half section of land in each county, to be located near the center of said county, for county seat purposes, to be entered under sections twenty-three hundred and eighty-seven and twenty-three hundred and eighty-eight of the Revised Statutes. (26 Stat. 1043.)

These provisions were part of section 37 of the Indian appropriation act for the fiscal year 1892, cited above.

See notes to provisions of section 16 of the act, ante, § 5027.

Provisions similar to those of this section were made also by section 17 of the act, 26 Stat. 1026.

R. S. §§ 2387, 2388, mentioned in this section, making provisions for town-site entries by trustees, are set forth ante, §§ 4791, 4792.

§ 5029. (Act May 14, 1890, c. 207, § 1.) Entry by trustees.

So much of the public lands situate in the Territory of Oklahoma, now open to settlement, as may be necessary to embrace all the legal subdivisions covered by actual occupancy for purposes of trade and business, not exceeding twelve hundred and eighty acres in each case, may be entered as town-sites, for the several use and benefit of the occupants thereof, by three trustees to be appointed by the Secretary of the Interior for that purpose, such entry to be made under the provisions of section twenty-three hundred and eighty-seven of the Revised Statutes as near as may be; and when such entry shall have been made, the Secretary of the Interior shall provide regulations for the proper execution of the
trust, by such trustees including the survey of the land into streets, 
alleys, squares, blocks, and lots when necessary, or the approval of 
such survey as may already have been made by the inhabitants 
thereof, the assessment upon the lots of such sum as may be neces-
sary to pay for the lands embraced in such town-site, costs of survey, 
conveyance of lots, and other necessary expenses, including compen-
sation of trustees: Provided, That the Secretary of the Interior may 
when practicable cause more than one town site to be entered and 
the trust thereby created executed in the manner herein provided 
by a single board of trustees, but not more than seven boards of trus-
tees in all shall be appointed for said Territory, and no more than 
two members of any of said boards shall be appointed from one 
political party. (26 Stat. 109.)

This section and the six sections next following were part of an act en-
titled "An act to provide for town site entries of lands in what is known as 
Oklahoma, and for other purposes."

Section 8 of the act made an appropriation for carrying out the provisions of 
the act. It is omitted as temporary merely.

Oklahoma was admitted into the Union as a State by Act June 16, 1906, c. 
3833, 34 Stat. 287.

The provisions of this act were extended to the Cherokee Outlet by Joint 
Res. Sept. 1, 1893, No. 4, post, § 5038.

The board of town-site trustees created by this act was abolished, and so 
much of the trust vested in the board and initiated as remains unexecuted 
was vested in the Commissioner of the General Land-Office, by Act July 7, 
1898, c. 571, § 1, post, § 5037.

Special provisions relating to town-sites upon lands ceded by particular 
Indian bands or tribes were made by Act May 2, 1890, c. 182, § 22, 26 Stat. 
91, and Act March 11, 1902, c. 180, 32 Stat. 63. They are omitted as special 
and local only.

§ 5030. (Act May 14, 1890, c. 207, § 2.) Certificate or other evi-
dence of occupancy.

In the execution of such trust, and for the purpose of the con-
vveyance of title by said trustees, any certificate or other paper evi-
dence of claim duly issued by the authority recognized for such 
purpose by the people residing upon any town site the subject 
of entry hereunder, shall be, taken as evidence of the occupancy by 
the holder thereof of the lot or lots therein described, except that 
where there is an adverse claim to said property such certificate 
shall only be prima facie evidence of the claim of occupancy of the 
holder: Provided, That nothing in this act contained shall be so con-
strued as to make valid any claim now invalid of those who entered 
upon and occupied said lands in violation of the laws of the United 
States or the proclamation of the President thereunder: Provided 
further, That the certificates hereinbefore mentioned shall not be 
taken as evidence in favor of any person claiming lots who entered 
upon said lots in violation of law or the proclamation of the President 
thereunder. (26 Stat. 109.)

§ 5031. (Act May 14, 1890, c. 207, § 3.) Church lots.

Lots of land occupied by any religious organization, incorporated 
or otherwise, conforming to the approved survey within the limits 
of such town-site, shall be conveyed to or in trust for the same 
(26 Stat. 109.)
§ 5032. (Act May 14, 1890, c. 207, § 4.) Sale or reservation of lots.

All lots not disposed of as hereinbefore provided for shall be sold under the direction of the Secretary of the Interior for the benefit of the municipal government of any such town, or the same or any part thereof may be reserved for public use as sites for public buildings, or for the purpose of parks, if in the judgment of the Secretary such reservation would be for the public interest, and the Secretary shall execute proper conveyances to carry out the provisions of this section. (26 Stat. 109.)

§ 5033. (Act May 14, 1890, c. 207, § 5.) Town-site law of Kansas to govern trustees.

The provisions of sections four, five, six and seven, of an act of the legislature of the State of Kansas, entitled "An act relating to town-sites," approved March second, eighteen hundred and sixty-eight, shall, so far as applicable, govern the trustees in the performance of their duties hereunder. (26 Stat. 109.)

§ 5034. (Act May 14, 1890, c. 207, § 6.) Preference of pending entries; appeals.

All entries of town-sites now pending on application hereafter made under this act, shall have preference at the local land office of the ordinary business of the office and shall be determined as speedily as possible, and if an appeal shall be taken from the decision of the local office in any such case to the Commissioner of the General Land Office, the same shall be made special, and disposed of by him as expeditiously as the duties of his office will permit, and so if an appeal should be taken to the Secretary of the Interior. And all applications heretofore filed in the proper land office shall have the same force and effect as if made under the provisions of this act, and upon the application of the trustees herein provided for, such entries shall be prosecuted to final issue in the names of such trustees, without other formality and when final entry is made the title of the United States to the land covered by such entry shall be conveyed to said trustees for the uses and purposes herein provided. (26 Stat. 110.)

§ 5035. (Act May 14, 1890, c. 207, § 7.) Authority, duties, and compensation of trustees.

The trustees appointed under this act shall have the power to administer oaths, to hear and determine all controversies arising in the execution of this act shall keep a record of their proceedings, which shall, with all papers filed with them and all evidence of their official acts, except conveyances, be filed in the General Land Office and become part of the records of the same, and all conveyances executed by them shall be acknowledged before an officer duly authorized for that purpose. They shall be allowed such compensation as the Secretary of the Interior may prescribe, not exceeding ten dollars per day while actually employed; and such traveling and other necessary expenses as the Secretary may author-
§ 5038. (Res. Sept. 1, 1893, No. 4.) Town-site laws extended to Cherokee Outlet.

That all the provisions of an act of Congress, approved May Fourteenth, One Thousand Eight Hundred and Ninety, which provides for townsite entries of lands in a portion of what is known as "Oklahoma," be, and the same are hereby, made applicable to the territory known as the "Cherokee Outlet," and now a part of the Territory of Oklahoma; and that all acts or parts of acts inconsistent with this joint resolution be and the same are hereby repealed. (28 Stat. 11.)

Act May 14, 1890, c. 207, mentioned in this resolution, is set forth ante, §§ 5029-5035.

Oklahoma was admitted into the Union as a State by Act June 16, 1906, c. 3335, 34 Stat. 267.

§ 5037. (Act July 7, 1898, c. 571.) Boards of town-site trustees abolished.

Payment to boards on town-site entries in Oklahoma: * * On January first, eighteen hundred and ninety-nine, the boards of trustees for town sites, and each of them in said Territory, shall cease and be abolished, and no compensation shall be allowed or paid to anyone, member, or trustee, or disbursing agent on or after January first, eighteen hundred and ninety-nine. And so much of the trust vested in said boards and heretofore initiated as shall remain unexecuted on said date shall be vested in the Commissioner of the General Land Office, who is hereby authorized and empowered to complete the same. (30 Stat. 674.)

This was a proviso annexed to an appropriation for the boards on town-site entries in the deficiency appropriation act for the fiscal year 1898, cited above.

The boards of town-site trustees abolished by this provision were created by Act May 14, 1890, c. 207, ante, §§ 5029-5035.

Oklahoma was admitted into the Union as a State by Act June 16, 1906, c. 3335, 34 Stat. 267.

§ 5038. (Act May 11, 1896, c. 168, § 1.) Vacation of town-sites; homestead entries; sale.

In all cases where a town site, or an addition to a town site, entered under the provisions of section twenty-two of an Act entitled "An Act to provide a temporary government for the Territory of Oklahoma, to enlarge the jurisdiction of the United States court in the Indian Territory, and for other purposes," approved May second, eighteen hundred and ninety, shall be vacated in accordance with the laws of the Territory of Oklahoma, and patents for the public reservations in such vacated town site, or addition thereto, have not been issued, it shall be lawful for the Commissioner of the General Land Office, upon an official showing that such town site, or addition thereto, has been vacated, and upon payment of the homestead price for such reservations, to issue a patent for such reservations to the original entryman. If the orig- (2095)
inal entryman shall fail or neglect to make application for the reservations within six months from the vacation of such town site, or from the passage of this Act, the reservations shall be subject to disposal under the provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States, as amended by the Act approved February twenty-sixth, eighteen hundred and ninety-five. (29 Stat. 116.)

This section and the section next following were part of an act entitled "An act providing for the disposal of public reservations in vacated town sites or additions to town sites in the Territory of Oklahoma."

Section 8 of the act repealed all laws in so far as they conflicted with this act.

Oklahoma was admitted into the Union as a State by Act June 16, 1906, c. 3335, 34 Stat. 267.

R. S. § 2455, mentioned in this section, is set forth post, § 5110.

Act May 2, 1890, c. 182, § 22, mentioned in this section, is set forth ante, § 5023.

§ 5039. (Act May 11, 1896, c. 168, § 2.) Vacated town-sites to be sold by towns or as isolated tracts.

If a patent has already issued, or shall hereafter issue, for any such reservation, to any town or municipality, such town or municipality, upon the vacation of the town site or addition thereto, as aforesaid, may sell the same at public or private sale to the highest bidder after thirty days' public notice of such sale, and convey said lands to the purchaser by proper deed of conveyance, and cover the proceeds of such sale into the school fund of such town or municipality:

Provided, That where, by reason of the vacation of an entire town site and all its additions, the municipal organization has ceased to exist, the reservations in such vacated town site which may have been patented to the town may be disposed of as isolated tracts under the provisions of section twenty-four hundred and fifty-five of the Revised Statutes of the United States, as amended by the Act approved February twenty-sixth, eighteen hundred and ninety-five. (29 Stat. 117.)

See notes to section 1 of this act, ante, § 5088.

§ 5040. (Act Jan. 18, 1897, c. 62, § 1.) Homestead settlers on lands in Greer county; preference right; purchase of additional lands; rights of settlers' families; effect of death of settler; removal of crops and improvements.

Every person qualified under the homestead laws of the United States, who, on March sixteenth, eighteen hundred and ninety-six, was a bona fide occupant of land within the territory established as Greer County, Oklahoma, shall be entitled to continue his occupation of such land with improvements thereon, not exceeding one hundred and sixty acres, and shall be allowed six months preference right from the passage of this Act within which to initiate his claim thereto, and shall be entitled to perfect title thereto under the provisions of the homestead law, upon payment of land office fees only, at the expiration of five years from the date of entry, except that such person shall receive credit for all time during which he or those under whom he claims shall have continuously occupied the same prior to (2006)
March sixteenth, eighteen hundred and ninety-six. Every such person shall also have the right, for six months prior to all other persons, to purchase at one dollar an acre, in five equal annual payments, any additional land of which he was in actual possession on March sixteenth, eighteen hundred and ninety-six, not exceeding one hundred and sixty acres, which, prior to said date, shall have been cultivated, purchased, or improved by him. When any person entitled to a homestead or additional land, as above provided, is the head of a family, and though still living, shall not take such homestead or additional land, within six months from the passage of this Act, any member of such family over the age of twenty-one years, other than husband or wife, shall succeed to the right to take such homestead or additional land for three months longer, and any such member of the family shall also have the right to take, as before provided, any excess of additional land actually cultivated or improved prior to March sixteenth, eighteen hundred and ninety-six above the amount to which such head of the family is entitled, not to exceed one hundred and sixty acres to any one person thus taking as a member of such family.

In case of the death of any settler who actually established residence and made improvement on land in said Greer County prior to March sixteenth, eighteen hundred and ninety-six, the entry shall be treated as having accrued at the time the residence was established, and sections twenty-two hundred and ninety-one and twenty-two hundred and ninety-two of the Revised Statutes shall be applicable thereto.

Any person entitled to such homestead or additional land shall have the right prior to January first, eighteen hundred and ninety-seven, from the passage of this Act to remove all crops and improvements he may have on land not taken by him. (29 Stat. 490.)

This section and the three sections next following were part of an act entitled "An act to provide for the entry of lands in Greer County, Oklahoma, to give preference rights to settlers, and for other purposes."

The act providing a temporary government for the Territory of Oklahoma excepted from its provisions Greer county, until the decision by the Supreme Court of the United States on the title to said county as between the United States and the State of Texas, Act May 2, 1890, c. 182, § 25, 28 Stat. 92. The action brought in the Supreme Court under that act was decided March 16, 1896, and the title to said county adjudicated to be in the United States. United States v. Texas, 162 U. S. 1, 16 S. Ct. 725, 40 L. Ed. 867. This act was passed for the purpose of relieving settlers on lands in said county. The government of the county was provided for by Act May 4, 1896, c. 155, 29 Stat. 115.

Section 4 of the act reserved sections 16 and 36 for school purposes and provided for the selection of lieu lands when those sections were occupied under the homestead or town-site laws. Section 5 provided for the issuance of patents for lands occupied on March 16, 1896, for church, cemetery, school, or other charitable or voluntary purposes. Section 6 established a land office at Mangum. Section 8 provided that the act should take effect from its passage and approval. These sections, being temporary in their nature, are omitted. Provisions relating to settlements on ceded Indian lands generally are set forth ante, under chapter 101 of this Title, "Ceded Indian Reservations."

R. S. § 2291, ante, § 4532, mentioned in this section, provided when certificates and patents, under the homestead laws, should be given, and also provided for the affidavit and other proofs required as a prerequisite to the certificates and patents. Rev. St. § 2262, ante, § 4545, also mentioned therein, prescribed

Comp. St. '13-182

(2097)
cases in which the rights of homestead entrymen should inure to the benefit of infant children. The time within which the preference right was to be exercised was extended to Jan. 1, 1898, by Act June 23, 1897, c. 8, 30 Stat. 105.

The right to perfect entries given by this section was extended to purchasers of lands in Greer county from Texas, notwithstanding the fact that they had already acquired lands under the homestead laws, by Act March 1, 1899, c. 328, post, § 5044.

§ 5041. (Act Jan. 18, 1897, c. 62, § 2.) Unoccupied lands subject to entry under homestead laws only.

All land in said county not occupied, cultivated, or improved, as provided in the first section hereof, or not included within the limits of any town site or reserve shall be subject to entry to actual settlers only, under the provisions of the homestead law. (29 Stat. 490.)

§ 5042. (Act Jan. 18, 1897, c. 62, § 3.) Town-site entries.
The inhabitants of any town located in said county shall be entitled to enter the same as a town site under the provisions of sections twenty-three hundred and eighty-seven, twenty-three hundred and eighty-eight, and twenty-three hundred and eighty-nine of the Revised Statutes of the United States: Provided, That all persons who have made or own improvements on any town lots in said county made prior to March sixteenth, eighteen hundred and ninety-six, shall have the preference right to enter said lots under the provisions of this Act and of the general town site laws. (29 Stat. 490.)

R. S. §§ 2387-2389, mentioned in this section, providing for the entry of town sites by trustees, are set forth ante, §§ 4791-4793.

§ 5043. (Act Jan. 18, 1897, c. 62, § 7.) Application of act to Greer county only; repeal; commutation of homesteads.
The provisions of this Act shall apply only to Greer County, Oklahoma, and that all laws inconsistent with the provisions of this Act, applying to said territory in said county, are hereby repealed; and all laws authorizing commutations of homesteads in Oklahoma shall apply to Greer County. (29 Stat. 491.)

Provisions relating to the commutation of homestead entries upon lands acquired from Indians generally, and upon such lands in Oklahoma, are set forth ante, §§ 5013, 5020-5026.

§ 5044. (Act March 1, 1899, c. 328.) Right of purchasers from Texas to perfect title under homestead laws notwithstanding previous entries thereunder.

Section one of an Act to give preference right to settlers in Greer County, Oklahoma Territory, is hereby so amended as to allow parties who have had the benefit of the homestead laws of the United States, and who had purchased land in Greer County from the State of Texas prior to March sixteenth, eighteen hundred and ninety-six, to perfect titles to said lands according to the provisions of section one hereinbefore mentioned, under such regulations as the Commissioner of the General Land Office may prescribe, and according to the legal subdivisions of the public surveys, if no adverse rights have attached: Provided, That no settler shall be per-
mitted to acquire to exceed three hundred and twenty acres under this provision. (30 Stat. 966.)

This was an act entitled “An act to amend section one of an act to provide for the entry of lands in Greer County, Oklahoma Territory, to give preference rights to settlers, and for other purposes.”

Act Jan. 18, 1897, c. 62, § 1, amended by this section, is set forth ante, § 5040.

Oklahoma was admitted into the Union as a State by Act June 16, 1906, c. 3335, 34 Stat. 267.

Actual settlers on lands in Greer county were entitled to perfect their entries by Act Jan. 18, 1887, c. 62, ante, §§ 5040–5043.

CHAPTER TEN K
Public Lands in Alaska

This chapter, inserted here as additional to the original chapters of the Revised Statutes, includes Act March 3, 1881, c. 561, §§ 11–14, Act May 14, 1898, c. 299, Act April 28, 1904, c. 1772, and other provisions of a general and permanent nature relating to public lands in Alaska.

Sec. 5045. Surveys in Alaska.
5046. Homestead laws extended to Alaska; limitation of amount to be entered; locations on unsurveyed lands; restriction of transfers.
5047. Mining laws extended to Alaska; gold, etc., mining on Bering Sea; miners’ regulations; not to conflict with laws of United States; exclusive permits to mine below low tide forbidden; gold, etc., mining below low tide; regulations; reservation of roadway not to apply to mineral lands or town sites.
5049. Recording notices of location; when and where filed for record.
5050. Miners’ regulations for recording; election of recorder; certain records legalized.
5051. Annual labor or improvements on mining claims in Alaska; affidavits, and making and filing thereof; forfeiture of claim for failure to comply with provisions of act.
5052. Fees for filing, etc., proofs of work and improvements.
5053. Time for filing adverse claims, and for instituting adverse suits, in Alaska.
5054. Association placer-mining claims limited to 40 acres; annual assessment work to be not less than $100 for each 20 acres, or fraction.
5055. Requisites of power of attorney to locate placer-mining claim; restrictions upon locations by attorneys.
5056. Restrictions upon locations by owners.
5057. Area and shape of placer-mining claims.
5058. Placer-mining claims located in violation of this act void.
5059. Miner’s labor lien upon output; priority of lien.
5060. Claim of lien filed within 90 days; form.
5061. Recording claim of lien; fees of recorder.
5062. Limitation of lien if no action is commenced.
5063. Action to foreclose lien; jurisdiction of justices of the peace.
5064. Errors of form not ground for dismissal; amendment of notice and pleadings; opportunity to defendant to meet an omitted or misstated material averment.
5065. Lien notice filed as statement of the case; issuance and service of summons; posting notice on dump, etc.; effect; adverse claims.
5066. Joinder of lien claimants; consolidation of actions; costs; attorneys’ fees; waiver of lien void.

(2099)
The system of public land surveys is hereby extended to the district of Alaska. (30 Stat. 1098.)

This was a provision of the sundry civil appropriation act for the fiscal year 1900, cited above.

(2100)
§ 5046. (Act March 3, 1903, c. 1002.) Homestead laws extended to Alaska; limitation of amount to be entered; locations on unsurveyed lands; restriction of transfers.

All the provisions of the homestead laws of the United States not in conflict with the provisions of this Act, and all rights incident thereto, are hereby extended to the district of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lieu land selections pertaining to any land grant outside of the district of Alaska shall be made, and no land scrip or land warrant of any kind whatsoever shall be located within or exercised upon any lands in said district except as now provided by law; and provided further that no more than one hundred and sixty acres shall be entered in any single body by such scrip, lieu selection, or soldier's additional homestead right; and provided further that no location of scrip, selection, or right along any navigable or other waters shall be made within the distance of eighty rods of any lands, along such waters, theretofore located by means of any such scrip or otherwise; and provided further that no commutation privileges shall be allowed in excess of one hundred and sixty acres included in any homestead entry under the provisions hereof: Provided, That no entry shall be allowed extending more than one hundred and sixty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all such claims; and that nothing herein contained shall be so construed as to authorize entries to be made or title to be acquired to the shore of any navigable waters within said district; and no patent shall issue hereunder until all the requirements of sections twenty-two hundred and ninety-one, twenty-two hundred and ninety-two, and twenty-three hundred and five of the Revised Statutes of the United States have been fully complied with as to residence, improvements, cultivation, and proof except as to commuted lands as herein provided: And it is further provided, That every person who is qualified under existing laws to make homestead entry of the public lands of the United States who has settled upon or who shall hereafter settle upon any of the public lands of the United States situated in the district of Alaska, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, shall, subject to the provisions and limitations hereof, be entitled to enter three hundred and twenty acres or a less quantity of unappropriated public land in said district of Alaska. If any of the land so settled upon, or to be settled upon, is unsurveyed, then the land settled upon, or to be settled upon, must be located in a rectangular form, not more than one mile in length, and located by north and south lines run according to the true meridian; that the location so made shall be marked upon the ground by permanent monuments at each of the four corners of the said location, so that the boundaries of the same may be readily and easily traced; that the record of said location shall, within ninety days from the date of settlement, be filed for record in the recording district in which the land is situated. Said record shall contain the name of the settler,
§ 5046  THE PUBLIC LANDS

the date of the settlement, and such a description of the land settled upon, by reference to some natural object or permanent monument, as will identify the same; and, if after the expiration of the said period of five years or at such date as the settler may desire to commute the public surveys of the United States have not been extended over the land located, a patent shall nevertheless issue for the land included within the boundaries of said location as thus recorded, upon proof to be submitted to the register and receiver of the proper land office, upon proof that he is a citizen of the United States, and upon the further proof required by section twenty-two hundred and ninety-one of the Revised Statutes of the United States as heretofore and herein amended, and under the procedure in the obtaining of patents to the unsurveyed lands of the United States, as provided for by section ten of the Act hereby amended, and under such rules and regulations as shall be prescribed by the Secretary of the Interior as herebefore provided, without the payment of any purchase price or other charges, except the ordinary office fees and commissions of the register and receiver except one dollar and twenty-five cents per acre on land commuted: And provided always, That no title shall be obtained hereunder to any of the mineral or coal lands of the district of Alaska: And it is further provided, That the right of any homestead settler to transfer any portion of the land so settled upon, as provided by section twenty-two hundred and eighty-eight of the Revised Statutes of the United States, shall be restricted and limited within the district of Alaska as follows: For church, cemetery, or school purposes to five acres, and for the right of railroads across such homestead to one hundred feet in width on either side of the center line of said railroad; and all contracts by the settler made before his receipt of patent from the Government, for the conveyance of the land homesteaded by him or her, except as herein provided, shall be held null and void. (32 Stat. 1028.)

This was an act entitled "An act to amend section one of the act of Congress approved May fourteenth, eighteen hundred and ninety-eight, entitled 'An act extending the homestead laws and providing for a right of way for railroads in the District of Alaska.'"

Act May 14, 1898, c. 299, § 1, 30 Stat. 409, mentioned in said title of this act, as amended thereby, was as follows:

"The homestead laws of the United States and the rights incident thereto, including the right to enter surveyed or unsurveyed lands under provisions of law relating to the acquisition of title through soldiers' additional homestead rights, are hereby extended to the District of Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lien lands pertaining to any land grant whatsoever originating outside of said District of Alaska shall be located within or taken from lands in said District: Provided, That no entry shall be allowed extending more than eighty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all such claims, and that nothing herein contained shall be so construed as to authorize entries to be made, or title to be acquired, to the shore of any navigable waters within said District: And it is further provided, That no homestead shall exceed eighty acres in extent."

R. S. § 2291, mentioned in this act, and Act March 3, 1877, c. 172, with sub-

(2102)
sequent provisions relating to the same subject, are set forth ante, §§ 4532-
4534.

R. S. § 2292, mentioned in this act, is set forth ante, § 4543; and R. S. §
2305, also mentioned therein, is set forth ante, § 4593.

Section 10 of the act amended by this act, Act May 14, 1898, c. 290, also
mentioned in this act, is set forth post, § 5091.

R. S. § 2288, also mentioned in this act, was amended, subsequently to this
act, by Act March 3, 1895, c. 1424. It is set forth, as so amended, ante, §
4636.

§ 5047. (Act June 6, 1900, c. 786, § 26.) Mining laws extended to
Alaska; gold, etc., mining on Bering Sea; miners' regulations;
not to conflict with laws of United States; exclusive
permits to mine below low tide forbidden; gold, etc., mining
below low tide; regulations; reservation of roadway not to
apply to mineral lands or town sites.

The laws of the United States relating to mining claims, mineral
locations, and rights incident thereto are hereby extended to
[the District of] Alaska: Provided, That subject only to such
general limitations as may be necessary to exempt navigation from
artificial obstructions all land and shoal water between low and
mean high tide on the shores, bays, and inlets of Bering Sea, within
the jurisdiction of the United States, shall be subject to explo-
ration and mining for gold and other precious metals by citi-
zens of the United States, or persons who have legally declared
their intentions to become such, under such reasonable rules and
regulations as the miners in organized mining districts may have
heretofore made or may hereafter make governing the temporary
possession thereof for exploration and mining purposes until other-
wise provided by law: Provided further, That the rules and reg-
ulations established by the miners shall not be in conflict with
the mining laws of the United States; and no exclusive permit
shall be granted by the Secretary of War authorizing any person
or persons, corporation or company to excavate or mine under any
of said waters below low tide, and if such exclusive permit has
been granted it is hereby revoked and declared null and void; but
citizens of the United States or persons who have legally declared
their intention to become such shall have the right to dredge and
mine for gold or other precious metals in said waters, below low
tide, subject to such general rules and regulations as the Secre-
tery of War may prescribe for the preservation of order and the
protection of the interests of commerce; such rules and regula-
tions shall not, however, deprive miners on the beach of the right
hereby given to dump tailings into or pump from the sea opposite
their claims, except where such dumping would actually obstruct
navigation, and the reservation of a roadway sixty feet wide, under
the tenth section of the Act of May fourteenth, eighteen hundred
and ninety-eight, entitled "An Act extending the homestead laws
and providing for right of way for railroads in the District of

(2103)
Alaska, and for other purposes," shall not apply to mineral lands or town sites. (31 Stat. 329.)

This section was part of an act entitled "An act making further provision for a civil government for Alaska, and for other purposes," cited above.

Act May 14, 1888, c. 296, § 10, mentioned in this section, is set forth post. § 5091.


That native-born citizens of the Dominion of Canada shall be accorded in said [District of] Alaska the same mining rights and privileges accorded to citizens of the United States in British Columbia and the Northwest Territory by the laws of the Dominion of Canada or the local laws, rules, and regulations; but no greater rights shall be thus accorded than citizens of the United States or persons who have declared their intention to become such may enjoy in said [District of] Alaska; and the Secretary of the Interior shall from time to time promulgate and enforce rules and regulations to carry this provision into effect. (30 Stat. 415.)

This section was part of an act extending the homestead laws and providing for right of way for railroads in the District of Alaska, other sections of which are post, §§ 5083-5092.

The words "District of," inclosed in brackets in this section, were superseded by the organization of Alaska as a Territory by Act Aug. 24, 1912, c. 387. ante, §§ 3328-3544.

§ 5049. (Act June 6, 1900, c. 786, § 15.) Recording notices of location; when and where filed for record.

Notices of location of mining claims shall be filed for record within ninety days from the date of the discovery of the claim described in the notice, and all instruments shall be recorded in the recording district in which the property or subject-matter affected by the instrument is situated, and where the property or subject-matter is not situated in any established recording district the instrument affecting the same shall be recorded in the office of the clerk of the division of the court having supervision over the recording division in which such property or subject-matter is situated. (31 Stat. 327.)

This was a proviso annexed to section 15 of the act making further provision for a civil government for Alaska, cited above.

The preceding provisions of the section to which this proviso was annexed are set forth ante, § 3577.

See note to section 29 of this act, ante, § 5047.

§ 5050. (Act June 6, 1900, c. 786, § 16.) Miners' regulations for recording; election of recorder; certain records legalized.

* * * Miners in any organized mining district may make rules and regulations governing the recording of notices of location of mining claims, water rights, flumes and ditches, mill sites and affidavits of labor, not in conflict with this Act or the general laws of the United States; and nothing in this Act shall be construed so as to prevent the miners in any regularly organized mining district (2104)
not within any recording district established by the court from
electing their own mining recorder to act as such until a recorder
therefor is appointed by the court: Provided further, All records
heretofore regularly made by the United States commissioner at
Dyea, Skagway, and the recorder at Douglas City, not in conflict
with any records regularly made with the United States commis-
sioner at Juneau, are hereby legalized. And all records heretofore
made in good faith in any regularly organized mining district are
hereby made public records, and the same shall be delivered to the
recorder for the recording district including such mining district
within six months from the passage of this act. (31 Stat. 328.)

These were provisions annexed to section 18 of the act making further provi-
sion for a civil government for Alaska, cited above.
The preceding provisions of the section to which these provisions were annex-
ed are set forth ante, § 3578.
See note to section 28 of this act, ante, § 5047.

§ 5051. (Act March 2, 1907, c. 2559, § 1.) Annual labor or im-
provements on mining claims in Alaska; affidavits, and mak-
ing and filing thereof; forfeiture of claim for failure to com-
ply with provisions of act.

During each year and until patent has been issued therefor, at
least one hundred dollars' worth of labor shall be performed or
improvements made on, or for the benefit or development of, in
accordance with existing law, each mining claim in the district of
Alaska heretofore or hereafter located. And the locator or owner
of such claim or some other person having knowledge of the facts may
also make and file with the said recorder of the district in which the
claims shall be situate an affidavit showing the performance of labor
or making of improvements to the amount of one hundred dollars as
foresaid and specifying the character and extent of such work. Such
affidavit shall set forth the following: First, the name or number of
the mining claims and where situated; second, the number of days
work done and the character and value of the improvements placed
thereon; third, the date of the performance of such labor and of mak-
ing improvements; fourth, at whose instance the work was done or
the improvements made; fifth, the actual amount paid for work and
improvement, and by whom paid when the same was not done by the
owner. Such affidavit shall be prima facie evidence of the performance
of such work or making of such improvements, but if such affidavits
be not filed within the time fixed by this Act the burden of proof shall
be upon the claimant to establish the performance of such annual work
and improvements. And upon failure of the locator or owner of any
such claim to comply with the provisions of this Act, as to performance
of work and improvements, such claim shall become forfeited and open
to location by others as if no location of the same had ever been made.
The affidavits required hereby may be made before any officer author-
ized to administer oaths, and the provisions of sections fifty-three hun-
dred and ninety-two and fifty-three hundred and ninety-three of the
Revised Statutes are hereby extended to such affidavits. Said affida-

(2105)
§ 5051. THE PUBLIC LANDS (Tit. 32)

Vents shall be filed not later than ninety days after the close of the year in which such work is performed. (34 Stat. 1243.)

This section and the section next following were an act entitled “An act to amend the laws governing labor or improvements upon mining claims in Alaska.”

The provision of this act requiring the annual assessment work to be performed each year was suspended during the year 1913 as to all mining claims on Seward Peninsula in Alaska, west of longitude one hundred fifty-eighth west, and north of latitude sixty-four, so that no claim could be forfeited for nonperformance of the assessment work for that year, provided the claimant recorded in the office where the location notice and certificate was filed, on or before December 31, 1913, a notice that he intended in good faith to hold or work the claim, by Act Dec. 1, 1913, c. 1, 38 Stat. —.

§ 5052. (Act March 2, 1907, c. 2559, § 2.) Fees for filing, etc., proofs of work and improvements.

The recorders for the several divisions or districts of Alaska shall collect the sum of one dollar and fifty cents as a fee for the filing, recording, and indexing said annual proofs of work and improvements for each claim so recorded. (34 Stat. 1243.)

§ 5053. (Act June 7, 1910, c. 265.) Time for filing adverse claims, and for instituting adverse suits, in Alaska.

In the [district] of Alaska adverse claims authorized and provided for in sections twenty-three hundred and twenty-five and twenty-three hundred and twenty-six, United States Revised Statutes, may be filed at any time during the sixty days period of publication or within eight months thereafter, and the adverse suits authorized and provided for in section twenty-three hundred and twenty-six, United States Revised Statutes, may be instituted at any time within sixty days after the filing of said claims in the local land office. (36 Stat. 459.)

This was an act entitled “An act extending the time in which to file adverse claims and institute adverse suits against mineral entries in the District of Alaska.”

The word “district,” inclosed in brackets in this section, was superseded by the organization of Alaska as a Territory, by Act Aug. 24, 1912, c. 387, ante, §§ 3528-3544.

R. S. §§ 2225, 2323, mentioned in this act, are set forth ante, §§ 4622, 4623.

Previous provisions prescribing the times for filing adverse claims to coal lands in Alaska and for bringing actions thereon, were made by Act April 28, 1904, c. 1772, § 8, post, § 5073.

§ 5054. (Act Aug. 1, 1912, c. 269, § 1.) Association placer-mining claims limited to 40 acres; annual assessment work to be not less than $100 for each 20 acres, or fraction.

No association placer-mining claim shall hereafter be located in Alaska in excess of forty acres, and on every placer-mining claim hereafter located in Alaska, and until a patent has been issued therefor, not less than one hundred dollars' worth of labor shall be performed or improvements made during each year, including the year of location, for each and every twenty acres or excess fraction thereof. (37 Stat. 242.)

This section and the four sections next following were an act entitled “An act to modify and amend the mining laws in their application to the Territory of Alaska, and for other purposes.”

(2106)
§ 5055. (Act Aug. 1, 1912, c. 269, § 2.) Requisites of power of attorney to locate placer-mining claim; restrictions upon locations by attorneys.

No person shall hereafter locate any placer-mining claim in Alaska as attorney for another unless he is duly authorized thereto by a power of attorney in writing, duly acknowledged and recorded in any recorder's office in the judicial division where the location is made. Any person so authorized may locate placer-mining claims for not more than two individuals or one association under such power of attorney, but no such agent or attorney shall be authorized or permitted to locate more than two placer-mining claims for any one principal or association during any calendar month, and no placer-mining claim shall hereafter be located in Alaska except under the limitations of this Act. (37 Stat. 243.)

§ 5056. (Act Aug. 1, 1912, c. 269, § 3.) Restrictions upon locations by owners.

No person shall hereafter locate, cause or procure to be located, for himself more than two placer-mining claims in any calendar month: Provided, That one or both of such locations may be included in an association claim. (37 Stat. 243.)

§ 5057. (Act Aug. 1, 1912, c. 269, § 4.) Area and shape of placer-mining claims.

No placer-mining claim hereafter located in Alaska shall be patented which shall contain a greater area than is fixed by law, nor which is longer than three times its greatest width. (37 Stat. 243.)

§ 5058. (Act Aug. 1, 1912, c. 269, § 5.) Placer-mining claims located in violation of this act void.

Any placer-mining claim attempted to be located in violation of this Act shall be null and void, and the whole area thereof may be located by any qualified locator as if no such prior attempt had been made. (37 Stat. 243.)

§ 5059. (Act June 25, 1910, c. 422, § 1.) Miner's labor lien upon output; priority of lien.

Every miner or other laborer who shall labor in or upon any mine or mining ground for another in the Territory of Alaska in digging, thawing, conveying, hoisting, piling, cleaning up, or any other kind of work in producing any mineral-bearing sands, gravels, earth, or rock, gold or gold dust, or other minerals, or shall aid or assist therein by his labor as cook, engineer, fireman, or in cutting and delivering wood used in said work, or in work in any like capacity in producing the dump, shall, where his labor directly aided in such production, have a lien upon the dump or mass of mineral-bearing sands, gravels, earth, or rocks, and all gold and gold dust, or other minerals therein, and all gold and gold dust extracted therefrom, for the full amount of wages for all the time which he was so employed as such laborer in producing the said dump, within one year next preceding his ceasing to labor thereon; and to the extent of the labor of the said miner or other laborer actually employed or expended thereon, within one year next prior (2107)
§ 5059  THE PUBLIC LANDS

to ceasing to labor thereon, the said lien shall be prior to and preferred over any deed, mortgage, bill of sale, attachment, conveyance, or other claim, whether the same was made or given prior to such labor or not: Provided, That this preference shall not apply to any such deed, mortgage, bill of sale, attachment, conveyance, or other claim given in good faith and for value prior to the approval of this Act. (36 Stat. 848.)

This section and the ten sections next following constituted an act entitled “An act to create, establish, and enforce a miner's labor lien in the Territory of Alaska, and for other purposes.”

§ 5060. (Act June 25, 1910, c. 422, § 2.) Claim of lien filed within 90 days; form.

Every laborer, within ninety days after the completion of the performance of the work or labor mentioned in the foregoing section who shall claim the benefit thereof, must, personally or by some other person for him, file for record in the recording precinct where the labor was performed a claim of lien containing a statement of his demand under oath, substantially in the following form:

Notice of Laborer's Lien.

Territory of Alaska, ______ precinct, ss:

______, claimant, against ______, defendant.

Notice is hereby given that ______, claimant, claims a lien upon (describing the dump or mass of mineral-bearing sands, gravels, earth, or rock, and its location with reasonable certainty) in the ______ precinct, in the Territory of Alaska, for labor performed in (digging, and so forth; describe the work). That the name of the owner or reputed owner of said property is ______, and that ______ is the owner or reputed owner of the mine or mining ground from which the dump or mass of mineral-bearing sands, gravels, earth or rock and the minerals therein were extracted, and that ______ employed claimant to perform such work and labor upon the following terms and conditions (state substance of contract, if any, or reasonable value); that said contract has been faithfully performed and fully complied with on the part of the claimant, who performed labor thereunder aforesaid for the period of ______ days; that said labor was performed between the ______ day of ______ and the ______ day of ______, and the rendition of said service was closed on the ______ day of ______, and ninety days have not elapsed since that time; that the amount of claimant's demand for said service is ______; that no part thereof has been paid (except the sum of ______ dollars), and there is now due and remaining unpaid thereon, after deducting all just credits and offsets, the sum of ______ dollars, in which amount he claims a lien upon said property.

Claimant.

Territory of Alaska, ______ precinct, ss:

______, being first duly sworn, on oath deposes and says, that I am the claimant (or if by some other person state the fact) (2108)
named in the foregoing claim; that I have heard the same read, know the contents thereof, and believe the same to be true.

Subscribed and sworn to before me this ______ day of ______.

[Officer's title.]

(36 Stat. 848.)

§ 5061. (Act June 25, 1910, c. 422, § 3.) Recording claim of lien; fees of recorder.

The recorder must record every claim filed under the provisions of this Act in books kept by him for that purpose, which record must be indexed as deeds and other conveyances are required by law to be indexed and for which he may receive the following fees and none other: For filing, ten cents; for recording, one dollar; for indexing, fifteen cents for each name. (36 Stat. 849.)

§ 5062. (Act June 25, 1910, c. 422, § 4.) Limitation of lien if no action is commenced.

No lien provided for in this Act shall bind any property for a longer period than ninety days after the claim has been filed, unless an action be commenced within that time to enforce the same. (36 Stat. 849.)

§ 5063. (Act June 25, 1910, c. 422, § 5.) Action to foreclose lien; jurisdiction of justices of the peace.

The action for the foreclosure of the lien provided for in this Act shall be begun either in the district court or in the justice's court in the precinct where the lien was filed and the justices of the peace in Alaska are hereby given full jurisdiction in the foreclosure of such liens under the provisions of this Act, and shall also have such other jurisdiction and power as is now conferred on them by law in aid of the enforcement of this Act, and the provisions of section seven hundred and twenty-three of chapter seventy-one of the Code of Civil Procedure now in force in Alaska shall be applicable to the jurisdiction intended to be conferred by this Act. (36 Stat. 849.)

Code of Civil Procedure, c. 71, § 723, mentioned in this section is Act June 6, 1900, c. 768, Title II, c. 71, § 723, 31 Stat. 448.

§ 5064. (Act June 25, 1910, c. 422, § 6.) Errors of form not ground for dismissal; amendment of notice and pleadings; opportunity to defendant to meet an omitted or misstated material averment.

No mistake, informality, or mere matter of form or lack of statement, either in the lien notice or pleadings, shall be ground for dismissal or unnecessary delay in the action to foreclose the lien, but the lien notice and pleadings may be amended at any time before judgment, and section ninety-two of chapter eleven of the Code of Civil Procedure now in force in Alaska shall apply to such amendments: Provided, That if it be shown that a material statement or averment has been omitted or misstated, it shall be ground for a

(2109)
reasonable delay or continuance to give the defendant a reasonable opportunity to meet it upon amendment. (36 Stat. 849.)

Code of Civil Procedure, c. 11, § 92, mentioned in this section is Act June 6, 1900, c. 788, Title II, c. 11, § 92, 31 Stat. 846.

§ 5065. (Act June 25, 1910, c. 422, § 7.) Lien notice filed as statement of the case; issuance and service of summons; posting notice on dump, etc.; effect; adverse claims.

The claimant may file the original or a certified copy of the notice of lien in the district or justice's court as the statement of his case, and thereupon the court or justice shall issue the usual summons directed to the defendant or defendants, which summons, together with a copy of the lien notice, shall, by any officer authorized to serve process, be served upon the defendant or defendants, as provided in sections nine hundred and fifty and nine hundred and fifty-one of chapter ninety-two of the Code of Civil Procedure now in force in Alaska. The summons shall require the defendant or defendants to appear before such court or justice at a time and a place to be named therein, not less than six nor more than twenty days from the date thereof, to answer the demand of the claimant in the said lien notice, or judgment for want of an answer will be taken against them. Service by publication may be had pursuant to sections forty-seven and forty-eight of chapter four of said Code of Civil Procedure. The officer serving the summons shall also immediately post a copy of said lien notice in a conspicuous place on the dump or mass of mineral-bearing sands, gravels, earth, or rock, and gold and gold dust, and other minerals therein upon which the lien is filed, and from the moment of posting the lien notice the dump or mass of mineral-bearing sands, gravels, earth, and rock, and gold and gold dust, and other minerals therein shall be in the custody and under the control of the officer. All persons who claim any interest therein in opposition to the lien claimant may come in and answer and set up and defend their said claims, but no claim or claims of any owner, lessee, or other adverse defendant shall bar the lien claimant from recovering the sum due him for actual labor in producing the said dump or mass of mineral-bearing sands, gravels, earth, or rock, or gold and gold dust, or other minerals. (36 Stat. 850.)

Code of Civil Procedure, c. 92, §§ 930, 931, mentioned in this section, are Act June 6, 1900, c. 788, Title II, c. 92, §§ 950, 951, 31 Stat. 481, 482; and Code of Civil Procedure, c. 4, §§ 47, 48, also mentioned in this section, are Act June 6, 1900, c. 788, Title II, c. 4, §§ 47, 48, 31 Stat. 840.

§ 5066. (Act June 25, 1910, c. 422, § 8.) Joinder of lien claimants; consolidation of actions; costs; attorneys' fees; waiver of lien void.

Any number of persons claiming liens under this Act may join in the same action, and when separate actions are commenced the court may consolidate them. The court shall also allow, as a part of the costs, the moneys paid for filing, recording, and indexing the notice of lien, the sum of five dollars for drawing the same, and a reasonable attorney's fee for each person claiming a lien, not to
exceed ten per centum of the amount of the lien established on
judgment. Any contract or agreement or any waiver of any kind
made or signed by any minor or laborer whereby it is sought to
waive or abandon his right to file a lien under this Act, or any
agreement for an extended time of payment whereby the same end
is sought, shall to that extent be null and void as against public
policy. (36 Stat. 850.)

§ 5067. (Act June 25, 1910, c. 422, § 9.) Judgment; order for
sale of dump, etc.; extraction of gold by marshal or by de-
fendant; disposition of proceeds; apportionment among pre-
ferred claims.

In such action judgment must be rendered in favor of each per-
son having a laborer's lien for the amount due him, and the court
shall order the dump or mass of mineral-bearing sands, gravels,
earth, or rock, and the gold and gold dust, and other minerals
therein subject to the lien to be sold by the marshal in the same
manner that personal property is sold on execution; or the court
may, upon a showing that it is necessary to do so to preserve the
property from loss or waste, by order require the marshal to wash
up or extract the gold and gold dust or other mineral from the
said mineral-bearing sands, gravels, earth, or rock; or the court
may, by order, allow the defendant or defendants or any party in-
terested to wash up and extract the said mineral, in the presence
of the marshal or deputy marshal or special officer, who shall take
the gold or gold dust or other minerals as it is washed up and ex-
tracted and return the same into court, and it shall be immediately
paid out as follows: First, the cost of cleaning up or extracting
the gold or gold dust or other minerals shall be paid; second, the
court costs shall be paid; and, third, the judgment or judgments
so rendered in favor of the lien claimants shall be paid; and if
there is not sufficient gold or gold dust, or other minerals, or suf-
ficient moneys obtained from the sale of the property to pay all
claims in full, the court shall apportion the proceeds to the pay-
ment of such judgments pro rata; Provided, That no part of any
such proceeds shall be paid upon any claim or judgment to any
person who did not actually perform labor in producing the dump
or the proceeds thereof until all such preferred claims are paid in
full. (36 Stat. 850.)

§ 5068. (Act June 25, 1910, c. 422, § 10.) Appeal from justice of
the peace; extraction and deposit of gold pending appeal;
excess paid to owner after 90 days if no liens filed against it;
deposit of cash in lieu of gold.

An appeal may be taken from a final judgment of a justice of
the peace in actions instituted under this Act to the district court,
in the manner provided in chapter ninety-seven of the Code of
Civil Procedure now in force in Alaska, and upon such appeal be-
ing perfected the dump or mass of mineral-bearing sands, gravels,
earth and rock, gold and gold dust, or other minerals shall be
washed up by the marshal or any party mentioned in section nine
§ 5068 THE PUBLIC LANDS (Tit. 32)

of this Act as the district court may direct, and all the gold or gold dust or other mineral so washed up shall be paid into the registry of the district court there to await the final judgment on appeal: Provided, That the gold or gold dust or other mineral in excess of the amount of the judgment, including an additional amount equal to the probable accruing costs on appeal and two years' interest at the legal rate, shall after the expiration of ninety days from the time it was paid into the registry of the district court, be released to the owners upon a showing that no liens have been filed against it. The defendant or defendants, or any one or more of them, may deposit cash in lieu of the gold or gold dust on the dump, which shall remain in the custody of the law until the final judgment, and shall then be applied in payment of the judgment or judgments rendered on each lien claims, and costs, and interest. (36 Stat. 851.)

Code of Civil Procedure, c. 97, mentioned in this section, is Act June 6, 1900, c. 786, Title II, c. 97, 31 Stat. 487, 488.

§ 5069. (Act June 25, 1910, c. 422, § 11.) Persons buying, washing, up, removing, etc., gold or gold dust with notice of lien, liable for full amount of judgment and costs; persons removing dump, etc., from possession of officer guilty of larceny.

Any person or persons who shall, after the copy of the notice of lien is posted upon any dump or mass of mineral-bearing sands, gravels, earth or rock, gold and gold dust, or other mineral, as provided in this Act, and with knowledge of such notice of lien, buy, purchase, wash up, remove, destroy, or carry away all or any part or portion of the same, or the gold or gold dust therein, or who shall render it difficult, uncertain, or impossible to identify the gold or gold dust or other mineral obtained therefrom, shall be liable to the lien holder for the full amount of his judgment and costs; and any person who shall take and carry away all or any part or portion of said dump of mineral-bearing sands, gravels, earth or rock, or the gold or gold dust or other minerals therefrom, after the same shall come into the custody of the officer, shall be guilty of a crime and shall be punished as for the larceny of a like amount; and any district attorney in Alaska is specially required to immediately cause a warrant to be issued for the arrest of any such person or persons and to prosecute them according to law. (36 Stat. 851.)

§ 5070. (Act June 6, 1900, c. 796.) Coal-land laws extended to Alaska.

So much of the public land laws of the United States are hereby extended to [the district of] Alaska as relate to coal lands, namely, sections twenty-three hundred and forty-seven to twenty-three hundred and fifty-two, inclusive, of the Revised Statutes. (31 Stat. 658.)

This was an act entitled "An act to extend the coal land laws to the District of Alaska."

The words "the district of," inclosed in brackets in this section, were super-
§ 5072. (Act April 28, 1904, c. 1772, § 1.) Location of lands on which coal mine has been opened or improved; filing notice of location.

Any person or association of persons qualified to make entry under the coal-land laws of the United States, who shall have opened or improved a coal mine or coal mines on any of the unsurveyed public lands of the United States in the district of Alaska, may locate the lands upon which such mine or mines are situated, in rectangular tracts containing forty, eighty, or one hundred and sixty acres, with north and south boundary lines run according to the true meridian, by marking the four corners thereof with permanent monuments, so that the boundaries thereof may be readily and easily traced. And all such locators shall, within one year from the passage of this Act, or within one year from making such location, file for record in the recording district, and with the register and receiver of the land district in which the lands are located or situated, a notice containing the name or names of the locator or locators, the date of the location, the description of the lands located, and a reference to such natural objects or permanent monuments as will readily identify the same. (33 Stat. 525.)

This section and the three sections next following were an act entitled "An act to amend an act entitled 'An act to extend the coal land laws to the district of Alaska,' approved June sixth, nineteen hundred."

Alaska was organized as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3528-3544.

§ 5072. (Act April 28, 1904, c. 1772, § 2.) Patents for coal lands, how obtained; notice of application therefor; title to shore of navigable waters not to be acquired.

Such locator or locators, or their assigns, who are citizens of the United States, shall receive a patent to the lands located by presenting, at any time within three years from the date of such notice, to the register and receiver of the land district in which the lands so located are situated an application therefor, accompanied by a certified copy of a plat of survey and field notes thereof, made by a United States deputy surveyor or a United States mineral surveyor duly approved by the surveyor-general for the district of Alaska, and a payment of the sum of ten dollars per acre for the lands applied for; but no such application shall be allowed until after the applicant has caused a notice of the presentation thereof, embracing a description
§ 5072. THE PUBLIC LANDS

of the lands, to have been published in a newspaper in the district of Alaska published nearest the location of the premises for a period of sixty days, and shall have caused copies of such notice, together with a certified copy of the official plat or survey, to have been kept posted in a conspicuous place upon the land applied for and in the land office for the district in which the lands are located for a like period, and until after he shall have furnished proof of such publication and posting, and such other proof as is required by the coal-land laws: Provided, That nothing herein contained shall be so construed as to authorize entries to be made or title to be acquired to the shore of any navigable waters within said district.

Act April 28, 1904, c. 1772, § 2, 33 Stat. 525.

§ 5073. (Act April 28, 1904, c. 1772, § 3.) Adverse claims, and proceedings thereon.

During such period of posting and publication, or within six months thereafter, any person or association of persons having or asserting any adverse interest or claim to the tract of land or any part thereof sought to be purchased shall file in the land office where such application is pending, under oath, an adverse claim, setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin an action to quiet title in a court of competent jurisdiction within the district of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of such court therein. (33 Stat. 525.)

Subsequent provisions extending the times for filing adverse claims, as authorized in Rev. St. §§ 2325, 2326, ante, §§ 4622, 4623, and for instituting suits thereon, were made by Act June 7, 1910, c. 205, ante, § 5053.

§ 5074. (Act April 28, 1904, c. 1772, § 4.) Existing provisions not in conflict with this act continued in force.

All the provisions of the coal-land laws of the United States not in conflict with the provisions of this Act shall continue and be in full force in the district of Alaska. (33 Stat. 526.)

§ 5075. (Act May 28, 1908, c. 211, § 1.) Consolidation of claims or locations of coal land in Alaska; formation of associations or corporations to perfect entry and acquire title.

All persons, their heirs or assigns, who have in good faith personally or by an attorney in fact made locations of coal land in the Territory of Alaska in their own interest, prior to November twelfth, nineteen hundred and six, or in accordance with circular of instructions issued by the Secretary of the Interior May sixteenth, nineteen hundred and seven, may consolidate their said claims or locations by including in a single claim, location, or purchase not to exceed two thousand five hundred and sixty acres of contiguous lands, not exceeding in length twice the width of the tract thus consolidated and for this purpose such persons, their heirs or assigns, may form associations or corporations who may perfect entry of and acquire title to such lands in accordance with the other provisions of law

(2114)
under which said locations were originally made: Provided, That no corporation shall be permitted to consolidate its claims under this Act unless seventy-five per centum of its stock shall be held by persons qualified to enter coal lands in Alaska. (35 Stat. 424.)

This section and the three sections next following were an act entitled "An act to encourage the development of coal deposits in the Territory of Alaska."

§ 5076. (Act May 28, 1908, c. 211, § 2.) Reservation to United States of preference right to purchase product of mine for use of Army and Navy.

The United States shall, at all times, have the preference right to purchase so much of the product of any mine or mines opened upon the lands sold under the provisions of this Act as may be necessary for the use of the Army and Navy, and at such reasonable and remunerative price as may be fixed by the President; but the producers of any coal so purchased who may be dissatisfied with the price thus fixed shall have the right to prosecute suits against the United States in the Court of Claims for the recovery of any additional sum or sums they may claim as justly due upon such purchase. (35 Stat. 424.)

§ 5077. (Act May 28, 1908, c. 211, § 3.) Forfeiture of lands or deposits purchased under act, if owned, etc., as part of combination, or controlled by combination, in form of unlawful trust, or subject of contract or conspiracy in restraint of trade, or held in excess of amount limited.

If any of the lands or deposits purchased under the provisions of this Act shall be owned, leased, trustee'd, possessed, or controlled by any device permanently, temporarily, directly, indirectly, tacitly, or in any manner whatsoever so that they form part of, or in any way effect any combination, or are in anywise controlled by any combination in the form of an unlawful trust, or form the subject of any contract or conspiracy in restraint of trade in the mining or selling of coal, or of any holding of such lands by any individual, partnership, association, corporation, mortgage, stock ownership, or control, in excess of two thousand five hundred and sixty acres in the district of Alaska, the title thereto shall be forfeited to the United States by proceedings instituted by the Attorney-General of the United States in the courts for that purpose. (35 Stat. 424.)

§ 5078. (Act May 28, 1908, c. 211, § 4.) Patents under act to recite terms and conditions prescribed.

Every patent issued under this Act shall expressly recite the terms and conditions prescribed in sections two and three hereof. (35 Stat. 424.)

Sections 2 and 3 of this act, mentioned in this section, are set forth ante, §§ 5078, 5077.

§ 5079. (Act March 3, 1891, c. 561, § 11.) Entries by trustees under town-site laws; surveys; limitation of entry.

Until otherwise ordered by Congress lands in Alaska may be entered for town-site purposes, for the several use and benefit of the occupants of such town sites, by such trustee or trustees as
§ 5079  THE PUBLIC LANDS

may be named by the Secretary of the Interior for that purpose, such entries to be made under the provisions of section twenty-three hundred and eighty-seven of the Revised Statutes as near as may be; and when such entries shall have been made the Secretary of the Interior shall provide by regulation for the proper execution of the trust in favor of the inhabitants of the town site, including the survey of the land into lots, according to the spirit and intent of said section twenty-three hundred and eighty-seven of the Revised Statutes, whereby the same results would be reached as though the entry had been made by a county judge and the disposal of the lots in such town site and the proceeds of the sale thereof had been prescribed by the legislative authority of a State or Territory. Provided, That no more than six hundred and forty acres shall be embraced in one townsite entry. (26 Stat. 1099.)

This section and the three sections next following were part of the act to repeal timber-culture laws, etc., cited above.
Other sections of the act are set forth or referred to post, § 5116.

§ 5080. (Act March 3, 1891, c. 561, § 12.) Purchases for trade or manufacture; adverse claimants.

Any citizen of the United States twenty-one years of age, and any association of such citizens, and any corporation incorporated under the laws of the United States, or of any State or Territory of the United States now authorized by law to hold lands in the Territories now or hereafter in possession of and occupying public lands in Alaska for the purpose of trade or manufactures, may purchase not exceeding one hundred and sixty acres to be taken as near as practicable in a square form, of such land at two dollars and fifty cents per acre: Provided, That in case more than one person, association or corporation shall claim the same tract of land the person, association or corporation having the prior claim by reason of possession and continued occupation shall be entitled to purchase the same; but the entry of no person, association, or corporation shall include improvements made by or in possession of another prior to the passage of this act. (26 Stat. 1100.)

See notes to section 11 of this act, ante, § 5079.
This section and the two sections immediately following may be regarded as superseded to a great extent, except as to claims initiated prior to January 1, 1898, by Act May 14, 1898, c. 296, § 10, post, § 5091.

§ 5081. (Act March 3, 1891, c. 561, § 13.) Surveys; deposits; making and approval.

It shall be the duty of any person, association, or corporation entitled to purchase land under this act to make an application to the [United States marshal, ex officio] surveyor-general of Alaska, for an estimate of the cost of making a survey of the lands occupied by such person, association, or corporation, and the cost of the clerical work necessary to be done in the office of the said [United States marshal, ex officio] surveyor-general; and on the receipt of such estimate from the [United States marshal, ex officio] surveyor general, the said person, association, or corporation shall deposit the amount in a United States depository, as is required by section

(2116)
numbered twenty-four hundred and one, Revised Statutes, relating to deposits for surveys.

That on the receipt by the [United States marshal, ex-officio] surveyor-general, of the said certificates of deposit, he shall employ a competent person to make such survey, under such rules and regulations as may be adopted by the Secretary of the Interior, who shall make his return of his field notes and maps to the office of the said [United States marshal, ex officio] surveyor-general; and the said [United States marshal, ex officio] surveyor-general, shall cause the said field notes and plats of such survey to be examined, and, if correct, approve the same, and shall transmit certified copies of such maps and plats to the office of the Commissioner of the General Land Office.

That when the said field notes and plats of said survey shall have been approved by the said Commissioner of the General Land Office, he shall notify such person, association, or corporation, who shall then, within six months after such notice, pay to the said [United States marshal, ex officio] surveyor-general, for such land, and patent shall issue for the same. (26 Stat. 1100.)

See notes to sections 11 and 12 of this act, ante, §§ 5079, 5080.

The words "United States marshal, ex officio," inclosed in brackets in this section, were superseded by the striking out of the provision of Act May 17, 1884, c. 53, § 8, 23 Stat. 26, that the United States marshal of Alaska should be the surveyor-general of that land-district, and by the provision for the appointment of a surveyor-general for Alaska, by Act July 24, 1897, c. 14, § 2, set forth ante, § 4458.

§ 5082. (Act March 3, 1891, c. 561, § 14.) Lands and rights reserved.

None of the provisions of the last two preceding sections of this act shall be so construed as to warrant the sale of any lands belonging to the United States which shall contain coal or the precious metals, or any town site, or which shall be occupied by the United States for public purposes, or which shall be reserved for such purposes, or to which the natives of Alaska have prior rights by virtue of actual occupation, or which shall be selected by the United States Commissioner of Fish and Fisheries on the island of Kadiak and Afognak for the purpose of establishing fish-culture stations. And all tracts of land not exceeding six hundred and forty acres in any one tract now occupied as missionary stations in said [district of] Alaska are hereby excepted from the operation of the last three preceding sections of this act. No portion of the islands of the Pribylov Group or the Seal Islands of Alaska shall be subject to sale under this act; and the United States reserves, and there shall be reserved in all patents issued under the provisions of the last two preceding sections the right of the United States to regulate the taking of salmon and to do all things necessary to protect and prevent the destruction of salmon in all the waters of the lands granted frequented by salmon. (26 Stat. 1100.)

See note to sections 11 and 12 of this act, ante, §§ 5079, 5080.

The words "district of," inclosed in brackets in this section, were superseded by the organization of Alaska as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3528-3544.

(2117)
§ 5083. (Act May 14, 1898, c. 299, § 2.) Right of way on lands in Alaska; materials, grounds for stations, etc., for railroads; reservation of minerals; title to tide lands, etc.; transportation charges to be posted.

The right of way through the lands of the United States in the District of Alaska is hereby granted to any railroad company, duly organized under the laws of any State or Territory or by the Congress of the United States, which may hereafter file for record with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the center line of said road; also the right to take from the lands of the United States adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad; also the right to take for railroad uses, subject to the reservation of all minerals and coal therein, public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road, excepting at terminals and junction points, which may include additional forty acres, to be limited on navigable waters to eighty rods on the shore line, and with the right to use such additional ground as may in the opinion of the Secretary of the Interior be necessary where there are heavy cuts or fills: Provided, That nothing herein contained shall be so construed as to give to such railroad company, its lessees, grantees, or assigns the ownership or use of minerals, including coal, within the limits of its right of way, or of the lands hereby granted: Provided further, That all mining operations prosecuted or undertaken within the limits of such right of way or of the lands hereby granted shall, under rules and regulations to be prescribed by the Secretary of the Interior, be so conducted as not to injure or interfere with the property or operations of the road over its said lands or right of way. And when such railway shall connect with any navigable stream or tide water such company shall have power to construct and maintain necessary piers and wharves for connection with water transportation, subject to the supervision of the Secretary of the Treasury: Provided, That nothing in this Act contained shall be construed as impairing in any degree the title of any State that may hereafter be erected out of said District, or any part thereof, to tide lands and beds of any of its navigable waters, or the right of such State to regulate the use thereof, nor the right of the United States to resume possession of such lands, it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may hereafter be erected out of said District. The term "navigable waters," as herein used, shall be held to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of ordinary high-water mark. All charges for the transportation of freight and passengers on railroads in the District of Alaska shall
be printed and posted as required by section six of an Act to regulate commerce as amended on March second, eighteen hundred and eighty-nine, and such rates shall be subject to revision and modification by the Secretary of the Interior. (30 Stat. 409.)

This was section 2 of an act entitled "An act extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes," cited above.

Section 1 of this act, which extended the homestead laws to Alaska, was amended by Act March 3, 1906, c. 1002, ante, § 5046.

Sections 3–11 of the act are set forth post, §§ 5094–5092.

Section 12 of the act authorising the President to establish, discontinue, etc., land districts in Alaska, is set forth ante, § 4517. Section 13, granting mining rights to native-born citizens of the Dominion of Canada, is set forth ante, § 5049. Section 14 granting the privileges of the bonded warehouses to the government and citizens of the Dominion of Canada, is set forth, post, § 5684.

The District of Alaska was organized as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3528–3544.

Section 6 of Interstate Commerce Act of Feb. 4, 1887, c. 104, mentioned in the last provision of this section, is set forth, as amended by Act March 2, 1889, c. 382, § 1, also mentioned therein, and by subsequent acts, post, § 8599.

§ 5084. (Act May 14, 1898, c. 299, § 3.) Rights of several roads through canyons, etc.; grade crossings; effect on wagon roads, etc.; right to regulate transportation charges.

Any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade; and the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any tramway, wagon road, or other public highway now located therein, nor prevent the location through the same of any such tramway, wagon road, or highway where such tramway, wagon road, or highway may be necessary for the public accommodation; and where any change in the location of such tramway, wagon road, or highway is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such tramway, wagon road, or highway, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road or tramway: Provided, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile, and that where the space is limited the United States district court shall require the road first constructed to allow any other railroad or tramway to pass over its track or tracks through such canyon, pass, or defile on such equitable basis as the said court may prescribe; and all shippers shall be entitled to equal accommodations as to the movement of their freight and without discrimination in favor of any person or corporation: Provided, That nothing herein shall be construed as depriving Congress of the right to regulate the charges for freight, passengers, and wharfage. (30 Stat. 410.)

See notes to section 2 of this act, ante, § 5083.

(2119)
§ 5085. (Act May 14, 1898, c. 299, § 4.) Condemnation of land; preliminary surveys.

Where any company, the right of way to which is hereby granted, shall in the course of construction find it necessary to pass over private lands or possessory claims on lands of the United States, condemnation of a right of way across the same may be made in accordance with section three of the Act entitled 'An Act to amend an Act entitled 'An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two,' approved July second, eighteen hundred and sixty-four: Provided further, That any such company, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter, to file the map and profile of definite location provided for in this Act, and such preliminary survey and plat shall, during the said period of one year from the time of filing the same, have the effect to render all the lands on which said preliminary survey and plat shall pass subject to such right of way. (30 Stat. 410.)

See notes to section 2 of this act, ante, § 5083.

Act July 2, 1894, c. 216, § 3, 13 Stat. 357, mentioned in this section, was not incorporated in the Revised Statutes.

The time of the Western Alaska Construction Company to comply with the provisions of this section and section 5 of this act, next following, relating to rights of way over public lands in Alaska for railroads, in acquiring and completing its railroad, was extended by Act April 9, 1904, c. 1165, 33 Stat. 185.

§ 5086. (Act May 14, 1898, c. 299, § 5.) Map of location; forfeiture of rights granted.

Any company desiring to secure the benefits of this Act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located a map and profile of at least a twenty-mile section of its road or a profile of its entire road if less than twenty miles, as definitely fixed; and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: Provided, That if any section of said road shall not be completed within one year after the definite location of said section so approved, or if the map of definite location be not filed within one year as herein required, or if the entire road shall not be completed within four years from the filing of the map of definite location, the rights herein granted shall be forfeited as to any such uncompleted section of said road, and thereupon shall revert to the United States without further action or declaration, the notation of such uncom-
pleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way, stations, and terminals shall cease and become null and void without further action. (30 Stat. 410.)

See notes to section 2 of this act, ante, § 5083.

§ 5087. (Act May 14, 1898, c. 299, § 6.) Right of way through lands in Alaska for wagon roads, wire rope, aerial or other tramways; reservation of minerals; preliminary survey and map of location; tolls; priority of applicants for right of way; forfeiture of rights granted; mortgages; liens.

The Secretary of the Interior is hereby authorized to issue a permit, by instrument in writing, in conformity with and subject to the restrictions herein contained, unto any responsible person, company, or corporation, for a right of way over the public domain in said District, not to exceed one hundred feet in width, and ground for station and other necessary purposes, not to exceed five acres for each station for each five miles of road, to construct wagon roads and wire rope, aerial, or other tramways, and the privilege of taking all necessary material from the public domain in said District for the construction of such wagon roads or tramways, together with the right, subject to supervision and at rates to be approved by said Secretary, to levy and collect toll or freight and passenger charges on passengers, animals, freight, or vehicles passing over the same for a period not exceeding twenty years, and said Secretary is also authorized to sell to the owner or owners of any such wagon road or tramway, upon the completion thereof, not to exceed twenty acres of public land at each terminus at one dollar and twenty-five cents per acre, such lands when located at or near tide water not to extend more than forty rods in width along the shore line and the title there- to be upon such expressed conditions as in his judgment may be necessary to protect the public interest, and all minerals, including coal, in such right of way or station grounds shall be reserved to the United States: Provided, That such lands may be located concurrently with the line of such road or tramway, and the plat of preliminary survey and the map of definite location shall be filed as in the case of railroads and subject to the same conditions and limitations: Provided further, That such rights of way and privileges shall only be enjoyed by or granted to citizens of the United States or companies or corporations organized under the laws of a State or Territory; and such rights and privileges shall be held subject to the right of Congress to alter, amend, repeal, or grant equal rights to others on contiguous or parallel routes. And no right to construct a wagon road on which toll may be collected shall be granted unless it shall first be made to appear to the satisfaction of the Secretary of the Interior that the public convenience requires the construction of such proposed road, and that the expense of making the same available and convenient for public travel will not be less on an average than five hundred dollars per mile: Provided, That if the proposed line of road in any case shall be located over any road or trail in common use for public travel, the Secretary of the
Interior shall decline to grant such right of way, if, in his opinion, the interests of the public would be injuriously affected thereby. Nor shall any right to collect toll upon any wagon road in said District be granted or inure to any person, corporation, or company until it shall be made to appear to the satisfaction of said Secretary that at least an average of five hundred dollars per mile has been actually expended in constructing such road; and all persons are prohibited from collecting or attempting to collect toll over any wagon road in said District, unless such person or the company or person for whom he acts shall at the time and place the collection is made or attempted to be be possess written authority, signed by the Secretary of the Interior, authorizing the collection and specifying the rates of toll: Provided, That accurate printed copies of said written authority from the Secretary of the Interior, including toll, freight, and passenger charges thereby approved, shall be kept constantly and conspicuously posted at each station where toll is demanded or collected. And any person, corporation, or company collecting or attempting to collect toll without such written authority from the Secretary of the Interior, or failing to keep the same posted as herein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not less than fifty dollars nor more than five hundred dollars, and in default of payment of such fine and costs of prosecution shall be imprisoned in jail not exceeding ninety days, or until such fine and costs of prosecution shall have been paid.

Any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this Act that may heretofore have constructed not less than one mile of road, at a cost of not less than five hundred dollars per mile, or one-half mile of tramway at a cost of not less than five hundred dollars; shall have the prior right to apply for such right of way and for lands at stations and terminals and to obtain the same pursuant to the provisions of this Act over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. That if any party to whom license has been granted to construct such wagon road or tramway shall, for the period of one year, fail, neglect, or refuse to complete the same, the rights herein granted shall be forfeited as to any such uncompleted section of said wagon road or tramway, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be canceled, and the reservations of such lands for the purposes of said right of way shall cease and become null and void without further action. And if such road or tramway shall not be kept in good condition for use, the Secretary of the Interior may prohibit the collection of toll thereon pending the making of necessary repairs. All mortgages executed by any company acquiring a right of way under this Act, upon any portion of its road that may be constructed in said District of Alaska, shall be recorded with the Secretary of the Interior, and the record thereof shall be notice of their

(2122)
execution, and shall be a lien upon all the rights and property of said company as therein expressed, and such mortgage shall also be recorded in the office of the secretary of the District of Alaska and in the office of the secretary of the State or Territory wherein such company is organized: Provided, That all lawful claims of laborers, contractors, subcontractors, or material men, for labor performed or material furnished in the construction of the railroad, tramway, or wagon road shall be a first lien thereon and take precedence of any mortgage or other lien. (30 Stat. 411.)

See note to section 2 of this act, ante, § 5083.

§ 5088. (Act May 14, 1898, c. 299, § 7.) Act not to apply to military, park, Indian, or other reservations.

This act shall not apply to any lands within the limits of any military, park, Indian, or other reservation unless such right of way shall be provided for by Act of Congress. (30 Stat. 412.)

See notes to section 2 of this act, ante, § 5083.

§ 5089. (Act May 14, 1898, c. 299, § 8.) Right to repeal or amend act; assignment of right of way.

Congress hereby reserves the right at any time to alter, amend, or repeal this Act or any part thereof; and the right of way herein and hereby authorized shall not be assigned or transferred in any form whatever prior to the construction and completion of at least one-fourth of the proposed mileage of such railroad, wagon road, or tramway, as indicated by the map of definite location, except by mortgages or other liens that may be given or secured thereon to aid in the construction thereof: Provided, That where within ninety days after the approval of this Act, proof is made to the satisfaction of the Secretary of the Interior that actual surveys, evidenced by designated monuments, were made, and the line of a railroad, wagon road or tramway located thereby, or that actual construction was commenced on the line of any railroad, wagon road or tramway, prior to January twenty-first, eighteen hundred and ninety-eight, the rights to inure hereunder shall, if the terms of this Act are complied with as to such railroad, wagon road or tramway, relate back to the date when such survey or construction was commenced; and in all conflicts relative to the right of way or other privilege of this Act the person, company or corporation having been first in time in actual survey or construction, as the case may be, shall be deemed first in right. (30 Stat. 412.)

See notes to section 2 of this act, ante, § 5083.

§ 5090. (Act May 14, 1898, c. 299, § 9.) Map of location; requisites.

The map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the line passes over surveyed lands, indicate the location of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of (2123)
§ 5090  THE PUBLIC LANDS

the road may be readily determined by reference to descriptions given in connection with said profile map. (30 Stat. 413.)

§ 5091. (Act May 14, 1898, c. 299, § 10.) Purchases for trade or manufacture; lands reserved; adverse claimants; applications; proof; patents.

Any citizen of the United States twenty-one years of age, or any association of such citizens, or any corporation incorporated under the laws of the United States or of any State or Territory now authorized by law to hold lands in the Territories, hereafter in the possession of and occupying public lands in the District of Alaska in good faith for the purposes of trade, manufacture, or other productive industry, may each purchase one claim only not exceeding eighty acres of such land for any one person, association, or corporation, at two dollars and fifty cents per acre, upon submission of proof that said area embraces improvements of the claimant and is needed in the prosecution of such trade, manufacture, or other productive industry, such tract of land not to include mineral or coal lands, and ingress and egress shall be reserved to the public on the waters of all streams, whether navigable or otherwise: Provided, That no entry shall be allowed under this Act on lands abutting on navigable water of more than eighty rods: Provided further, That there shall be reserved by the United States a space of eighty rods in width between tracts sold or entered under the provisions of this Act on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and that the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for landings, and wharves, with the provision that the public shall have access to and proper use of such wharves, and landings, at reasonable rates of toll to be prescribed by said Secretary, and a roadway sixty feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway: Provided further, That in case more than one person, association, or corporation shall claim the same tract of land, the person, association, or corporation having the prior claim, by reason of actual possession and continued occupation in good faith, shall be entitled to purchase the same, but where several persons are or may be so possessed of parts of the tract applied for the same shall be awarded to them according to their respective interests: Provided further, That all claims substantially square in form and lawfully initiated, prior to January twenty-first eighteen hundred and ninety-eight, by survey or otherwise, under sections twelve and thirteen of the Act approved March third, eighteen hundred and ninety-one (Twenty-sixth Statutes at Large, Chapter five hundred and sixty-one), may be perfected and patented upon compliance with the provisions of said Act, but subject to the requirements and provisions of this Act, except as to area, but in no case shall such entry extend along the water front for more than one hundred and sixty rods: And pro-
vided further, That the Secretary of the Interior shall reserve for the use of the natives of Alaska suitable tracts of land along the water front of any stream, inlet, bay, or sea shore for landing places for canoes and other craft used by such natives: Provided, That the Annette, Pribilof Islands, and the islands leased or occupied for the propagation of foxes be excepted from the operation of this Act. That all affidavits, testimony, proofs and other papers provided for by this Act and by said Act of March third, eighteen hundred and ninety-one, or by any departmental or Executive regulation thereunder, by depositions or otherwise, under commission from the registrar and receiver of the land office, which may have been or may hereafter be taken and sworn to anywhere in the United States, before any court, judge, or other officer authorized by law to administer an oath, shall be admitted in evidence as if taken before the register and receiver of the proper local land office. And thereafter such proof, together with a certified copy of the field notes and plat of the survey of the claim, shall be filed in the office of the surveyor-general of the District of Alaska, and if such survey and plat shall be approved by him, certified copies thereof, together with the claimant's application to purchase, shall be filed in the United States land office in the land district in which the claim is situated, whereupon, at the expense of the claimant, the register of such land office shall cause notice of such application to be published for at least sixty days in a newspaper of general circulation published nearest the claim within the District of Alaska, and the applicant shall at the time of filing such field notes, plat, and application to purchase in the land office, as aforesaid, cause a copy of such plat, together with the application to purchase, to be posted upon the claim, and such plat and application shall be kept posted in a conspicuous place on such claim continuously for at least sixty days, and during such period of posting and publication or within thirty days thereafter any person, corporation, or association, having or asserting any adverse interest in, or claim to, the tract of land or any part thereof sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction within the District of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court. (30 Stat. 413.)

The District of Alaska was organized as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3523-3544.

This section probably superseded the provisions of Act March 3, 1891, c. 561, §§ 12-14, ante, §§ 5080-5082, except as to claims initiated prior to January 1, 1898.

The Karluk Packing Company was authorized to purchase certain lands in Alaska, claimed by it, with certain reservations and exceptions, by Act May 21, 1900, c. 480, 31 Stat. 180.

The reservation, by this section, of a roadway along the shore was not to apply to mineral lands or town sites, by Act June 6, 1900, c. 786, § 27, post, § 5095.

See notes to section 2 of this act, ante, § 5083.

The Secretary of the Interior, under such rules and regulations as he may prescribe, may cause to be appraised the timber or any part thereof upon public lands in the District of Alaska, and may from time to time sell so much thereof as he may deem proper for not less than the appraised value thereof, in such quantities to each purchaser as he shall prescribe, to be used in the District of Alaska, but not for export therefrom. And such sales shall at all times be limited to actual necessities for consumption in the District from year to year, and payments for such timber shall be made to the receiver of public moneys of the local land office of the land district in which said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe, and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office in a separate account, and shall be covered into the Treasury. The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber found upon the public lands in said District of Alaska by actual settlers, residents, individual miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes, as may actually be needed by such persons for such purposes. (30 Stat. 414.)

The District of Alaska was organized as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3528-3544.

In addition to the provisions of this section relating to the sale and use for certain purposes of timber on public lands in Alaska, pulp wood or wood pulp manufactured from timber in Alaska may be exported therefrom, by Act Feb. 1, 1905, c. 288, § 2, post, § 5093.


Pulp wood or wood pulp manufactured from timber in [the district of] Alaska may be exported therefrom. (33 Stat. 628.)

This section was part of an act which transferred the execution of the laws relating to forest reserves from the Secretary of the Interior to the Secretary of Agriculture, other sections of which are set forth post, §§ 5142, 5152.

The District of Alaska was organized as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3528-3544.

§ 5094. (Act May 17, 1884, c. 53, § 8.) Missionary stations.

The land not exceeding six hundred and forty acres at any station now occupied as missionary stations among the Indian tribes in said section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which said missionary stations respectively belong until action by Congress. (23 Stat. 26.)

This section was part of an act entitled "An act providing a civil government for Alaska," cited above.

Tracts occupied as missionary stations were excepted from the operation of the town-site and trade-purchase laws by a proviso of Act March 3, 1891, c. 661, § 14, ante, § 5082.

(2126)
§ 5095. (Act June 6, 1900, c. 786, § 27.) Land for schools or missions; patents; general land laws not put in force in Alaska.

The Indians or persons conducting schools or missions in the district shall not be disturbed in the possession of any lands now actually in their use or occupation, and the land, at any station not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in the section, with the improvements thereon erected by or for such societies, shall be continued in the occupancy of the several religious societies to which the missionary stations respectively belong, and the Secretary of the Interior is hereby directed to have such lands surveyed in compact form as nearly as practicable and patents issued for the same to the several societies to which they belong; but nothing contained in this Act shall be construed to put in force in the district the general land laws of the United States. (31 Stat. 330.)

This section was part of an act entitled "An act making further provision for a civil government for Alaska, and for other purposes," cited above.

The District of Alaska was organized as a Territory by Act Aug. 24, 1912, c. 387, ante, §§ 3523-3544.

§ 5096. (Act May 17, 1906, c. 2469.) Allotment of land to native Indians or Eskimo as homesteads.

The Secretary of the Interior is hereby authorized and empowered, in his discretion and under such rules as he may prescribe, to allot not to exceed one hundred and sixty acres of nonmineral land in the district of Alaska to any Indian or Eskimo of full or mixed blood who resides in and is a native of said district, and who is the head of a family, or is twenty-one years of age; and the land so allotted shall be deemed the homestead of the allottee and his heirs in perpetuity, and shall be inalienable and nontaxable until otherwise provided by Congress. Any person qualified for an allotment as aforesaid shall have the preference right to secure by allotment the nonmineral land occupied by him not exceeding one hundred and sixty acres. (34 Stat. 197.)

This was an act entitled "An act authorizing the Secretary of the Interior to allot homesteads to the natives of Alaska."

CHAPTER ELEVEN

Miscellaneous Provisions Relating to the Public Lands

Sec. 5101. Certificates of location of private land claims in Florida, Louisians, and Missouri; issue and location.

Sec. 5102. Certificates receivable in payment of pre-emption claims or in commutation of homestead entries.

Sec. 5103. Location of certificates; entries; patents.

(2127)
§ 5097  THE PUBLIC LANDS  (Tit. 32)

Sec. 5104. Application of act to certificates issued under Act June 2, 1858, c. 81.

5105. Patents for locations under certificates made prior to Act Jan. 28, 1870, c. 30.

DISPOSITION OF SUSPENDED ENTRIES AND CLAIMS; INVALID AND DEFECTIVE CLAIMS AND PATENTS THEREFOR

5106. Cases of "suspended entries of public lands" and "suspended pre-emption land claims."

5107. Adjudications under above, how approved.

5108. Decisions to be arranged into classes.

5109. Patents to issue for lands in the first class, and lands in second class to revert to the United States.

5110. Commissioner to order into market and sell at auction isolated or disconnected tracts not exceeding one quarter section; sale of mountainous or rough tracts, not isolated or disconnected, upon application of adjoining landowner.

Sec. 5111. Patents surrendered and new ones issued in certain cases.

5112. Extent of foregoing provisions.

5113. Suspension of entries for correction of clerical errors; patents.

5114. Limitations of suits to annul patents.

5115. Entries and final proofs, made out of proper land district by error of officers, confirmed.

TIMBER-CULTURE

5116. Repeal of timber-culture laws.

EVIDENCES OF TITLE

5117. The false making, altering, etc., of any document in writing, etc., concerning lands, etc., in California; penalty.

5118. False date of any evidence of title under Mexican authority, etc., to lands in California; penalty.

5119. Presenting false or counterfeit evidences of title, etc., to lands in California, and prosecuting suits thereon; penalty.

ENFORCEMENT OF PROVISIONS

5120. Power of Commissioner of Land-Office to enforce this Title.

PATENTS FOR PRIVATE LAND CLAIMS

§ 5097. (R. S. § 2447.) Patents to issue for claims heretofore confirmed.

In case of any claim to land in any State or Territory which has heretofore been confirmed by law, and in which no provision is made by the confirmatory statute for the issue of a patent, it may be lawful, where surveys for the land have been or may hereafter be made, to issue patents for the claims so confirmed, upon the presentation to the Commissioner of the General Land-Office of plats of survey thereof, duly approved by the surveyor-general of any State or Territory, if the same be found correct by the Commissioner. But such patents shall only operate as a relinquishment of title on the part of the United States, and shall in no manner interfere with any valid adverse right to the same land, nor be construed to preclude a legal investigation and decision by the proper judicial tribunal between adverse claimants to the same land.

Act Dec. 22, 1854, c. 10, 10 Stat. 599.

All the right, title, and interest of the United States to lands in Missouri confirmed to claimants by Acts of Congress, or officers or boards acting under any act of Congress, were granted to such persons, to the same extent as if patents had been issued therefor, by Act June 6, 1874, c. 223, post, §§ 5099, 5100.

The issuance of certificates of location or scrip to claimants of land in Florida, Louisiana, and Missouri whose claims had been allowed, and the location of land thereunder, were provided for by Act Jan. 28, 1878, c. 30, and Act May 30, 1894, c. 87, post, §§ 5101-5104.

(2128)
§ 5098. (R. S. § 2448.) Patents issued to persons who had died before issue, effect of.

Where patents for public lands have been or may be issued, in pursuance of any law of the United States, to a person who had died, or who hereafter dies, before the date of such patent, the title to the land designated therein shall inure to and become vested in the heirs, devisees, or assignees of such deceased patentee as if the patent had issued to the deceased person during life.

Act May 20, 1866, c. 76, 5 Stat. 51.

§ 5099. (Act June 6, 1874, c. 223, § 1.) Title to lands in Missouri confirmed.

All of the right, title, and interest of the United States in and to all of the lands in the State of Missouri which have at any time heretofore been confirmed to any person or persons by any act of Congress, or by any officer or officers, or board or boards of commissioners, acting under and by authority of any act of Congress, shall be, and the same are hereby, granted, released, and relinquished by the United States, in fee-simple, to the respective owners of the equitable titles thereto, and to their respective heirs and assigns forever, as fully and as completely, in every respect whatever, as could be done by patents issued therefor according to law. (18 Stat. 62.)

This section and the section next following were part of an act entitled "An act obviating the necessity of issuing patents for certain private land-claims in the State of Missouri, and other purposes."

Section 8 of this act provided for the discontinuance of the office of recorder of land titles in Missouri, the disposition of the records, etc., of the office, and the exercise of the powers and performance of the duties of recorder. It is set forth ante, § 4614.

§ 5100. (Act June 6, 1874, c. 223, § 2.) Existing rights not affected.

Nothing contained in the first section of this act shall, in any manner, abridge, divest, impair, injure, or prejudice any valid right, title or interest of any person or persons in or to any portion or part of the lands mentioned in said first section; and this act shall in nowise affect any lands or lots heretofore relinquished to the United States. (18 Stat. 62.)

§ 5101. (Act Jan. 28, 1879, c. 30, § 1.) Certificates of location of private land claims in Florida, Louisiana, and Missouri; issue and location.

Whenever, in cases prosecuted under the acts of Congress of June twenty-second, eighteen hundred and sixty, March second, eighteen hundred and sixty-seven, and the first section of the act of June tenth, eighteen hundred and seventy-two, providing for the adjustment of private land-claims in the States of Florida, Louisiana and Missouri, the validity of the claim has been, or shall be hereafter, recognized by the Supreme Court of the United States, and the court has decreed that the plaintiff or plaintiffs is or are entitled to enter a certain number of acres upon the public lands of the United States, subject to private entry at one dollar
and twenty-five cents per acre, or to receive certificate of location for
as much of the land the title to which has been established as has
been disposed of by the United States, certificate of location shall
be issued by the Commissioner of the General Land Office attested
by the seal of said office, to be located as provided for in the sixth
section of the aforesaid act of Congress of June twenty-second, eigh-
ten hundred and sixty, or applied according to the provisions of the
second section of this act; and said certificate of location or scrip
shall be subdivided according to the request of the confirmee or con-
firmees, and, as nearly as practicable, in conformity with the legal
divisions and subdivisions of the public lands of the United States,
and shall be, and are hereby declared to be, assignable by deed or
instrument of writing, according to the form and pursuant to regu-
lations prescribed by the Commissioner of the General Land Office,
so as to vest the assignee with all the rights of the original owners
of the scrip, including the right to locate the scrip in his own name.
(20 Stat. 274.)

This section and the three sections next following were an act entitled "An
act defining the manner in which certain land-scrip may be assigned and lo-
cated, or applied by actual settlers, and providing for the issue of patents in
the name of the locator or his legal representatives."

Act June 22, 1860, c. 188, 12 Stat. 86, mentioned in this section, provided
a method of final adjustment of private land claims in Florida, Louisiana,
and Missouri. Act March 2, 1867, c. 184, 14 Stat. 544, and Act June 10,
1872, c. 421, § 1, 17 Stat. 378, also mentioned, continued Act June 22, 1860,
c. 188, in force.

§ 5102. (Act Jan. 28, 1879, c. 30, § 2.) Certificate receivable in
payment of pre-emption claims or in commutation of homestead entries.

Such scrip shall be received from actual settlers only in payment
of pre-emption claims or in commutation of homestead claims, in
the same manner and to the same extent as is now authorized by
law in the case of military bounty-land warrants. (20 Stat. 275.)

The pre-emption laws were repealed by Act March 3, 1891, c. 561, § 4, 26
Stat. 1097.

The homestead laws are contained in chapter 6 of this Title.
Provisions relating to military bounty-land warrants are contained in chap-
ter 10 of this Title.

§ 5103. (Act Jan. 28, 1879, c. 30, § 3.) Location of certificates;
entries; patents.

The register of the proper land-office, upon any such certificate
being located, shall issue, in the name of the party making the lo-
cation, a certificate of entry, upon which, if it shall appear to the
satisfaction of the Commissioner of the General Land Office that
such certificate has been fairly obtained, according to the true intent
and meaning of this act, a patent shall issue, as in other cases, in
the name of the locator or his legal representative. (20 Stat. 275.)

The provisions of this section were extended to scrip issued prior to the pas-
sage of this act, by Act May 30, 1894, c. 87, post, § 5105.

§ 5104. (Act Jan. 28, 1879, c. 30, § 4.) Application of act to cer-
tificates issued under Act June 2, 1858, c. 81.
The provisions of this act respecting the assignment and pat-
(2130)
entering of scrip and its application to pre-emption and homestead claims shall apply to the indemnity-certificates of location provided for by the act of the second of June, eighteen hundred and fifty-eight, entitled "An act to provide for the location of certain confirmed private land-claims in the State of Missouri, and for other purposes." (20 Stat. 275.)

Act June 2, 1888, mentioned in this section, was chapter 81 of the acts of that session, 11 Stat. 294.

§ 5105. (Act May 30, 1894, c. 87.) Patents for locations under certificates made prior to Act Jan. 28, 1879, c. 30.

It shall be lawful for the Commissioner of the General Land Office to cause patents to be issued, as evidence of title, for all valid locations made with land scrip issued pursuant to decrees of the Supreme Court of the United States, which valid locations were made prior to the approval of the aforesaid Act in the same manner that patents are now issued under the provisions of section three of said Act of January twenty-eighth, eighteen hundred and seventy-nine. (28 Stat. 84.)

This was an act entitled "An act supplementary to the act of Congress approved January twenty-eighth, eighteen hundred and seventy-nine, entitled "An act defining the manner in which certain land scrip may be assigned and located or applied by actual settlers, and providing for the issue of patents in the name of the locator or his legal representatives."

Act Jan. 28, 1879, c. 30, mentioned in this section, is set forth ante, §§ 5101–5104.

(R. S. § 2449. Transferred to Chapter 10A.)

This section provided for the passing of fee-simple title by grants of lands to the several States and Territories. It is placed, with other provisions relating to such grants, under chapter 10 A of this Title, "Reservations and Grants to States for Public Purposes," § 4570.

DISPOSITION OF SUSPENDED ENTRIES AND CLAIMS; INVALID AND DEFECTIVE CLAIMS AND PATENTS THEREFOR

§ 5106. (R. S. § 2450, as amended, Act Feb. 27, 1877, c. 69, § 1.) Cases of "suspended entries of public lands" and "suspended pre-emption land claims."

The Commissioner of the General Land-Office is authorized to decide upon principles of equity and justice, as recognized in courts of equity, and in accordance with regulations to be settled by the Secretary of the Interior, the Attorney-General, and the Commissioner, conjointly, consistently with such principles, all cases of suspended entries of public lands and of suspended pre-emption land claims, and to adjudge in what cases patents shall issue upon the same.


This section was amended by Act Feb. 27, 1877, c. 69, § 1, cited above, by striking out the words "Secretary of the Treasury," and inserting in place thereof the words "Secretary of the Interior."

The issuance of patents to settlers on donation lands in Washington and
§ 5108. (R. S. § 2453.) Decisions to be arranged into classes.

The Commissioner shall arrange his decisions into two classes; the first class to embrace all such cases of equity as may be finally confirmed by the board, and the second class to embrace all such cases as the board reject and decide to be invalid.

Act Aug. 3, 1846, c. 78, § 3, 9 Stat. 51.

§ 5109. (R. S. § 2454.) Patents to issue for lands in the first class, and lands in second class to revert to the United States.

For all lands covered by claims which are placed in the first class, patents shall issue to the claimants; and all lands embraced by claims placed in the second class shall ipso facto revert to, and become part of, the public domain.


§ 5110. (R. S. § 2455, as amended, Act Feb. 26, 1895, c. 133, Act June 27, 1906, c. 3554, and Act March 28, 1912, c. 67.) Commissioner to order into market and sell at auction isolated or disconnected tracts not exceeding one quarter section; sale of mountainous or rough tracts, not isolated or disconnected, upon application of adjoining landowner.

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


This section, as originally enacted, was as follows:

"It may be lawful for the Commissioner of the General Land-Office to order into market, after due notice, without the formality and expense of a proclamation of the President, all lands of the second class, though heretofore unproclaimed and unoffered, and such other isolated or disconnected tracts or parcels of unoffered land which, in his judgment, it would be proper to expose to sale in like manner. But public notice of at least thirty days shall be given by the land-officers of the district in which such lands may be situated, pursuant to the directions of the Commissioner."

It was amended by Act Feb. 26, 1885, c. 138, cited above, to read as follows:

"It shall be lawful for the Commissioner of the General Land Office to order into market and sell for not less than one dollar and twenty-five cents per acre any isolated or disconnected tract or parcel of the public domain less than one quarter section which in his judgment it would be proper to expose to sale after at least thirty days' notice by the land officers of the district in which such lands may be situated: Provided, That lands shall not become so isolated or disconnected until the same have been subject to homestead entry for a period of three years after the surrounding land has been entered, filed upon, or sold by the Government: Provided, That not more than one hundred and sixty acres shall be sold to any one person."

It was further amended by the amendment of said amendatory act by Act June 27, 1906, c. 3554, cited above, to read substantially as set forth here, except for the first proviso, which was added by the amendment by Act March 28, 1912, c. 67, last cited above.

The law providing for the sale of any isolated or disconnected tract or parcel of the public domain was extended to any isolated and unappropriated public lands within the Nes Perces Indian reservation, with a limitation as to the prices to be paid therefor, by Act Feb. 6, 1909, c. 76, 35 Stat. 597.

§ 5111. (R. S. § 2456.) Patents surrendered and new ones issued in certain cases.

Where patents have been already issued on entries which are confirmed by the officers who are constituted the board of adjudication, the Commissioner of the General Land-Office, upon the canceling of the outstanding patent, is authorized to issue a new patent, on such confirmation, to the person who made the entry, his heirs or assigns.

Act March 3, 1853, c. 162, § 2, 10 Stat. 258.

§ 5112. (R. S. § 2457.) Extent of foregoing provisions.

The preceding provisions from section twenty-four hundred and fifty to section twenty-four hundred and fifty-six, inclusive, shall be applicable to all cases of suspended entries and locations, which have arisen in the General Land-Office since the twenty-sixth day of June, eighteen hundred and fifty-six, as well as to all cases of a similar
§ 5112  THE PUBLIC LANDS (Tit. 32)

kind which may hereafter occur, embracing as well locations under
bounty-land warrants as ordinary entries or sales, including homestead
entries and pre-emption locations or cases; where the law has
been substantially complied with, and the error or informality arose
from ignorance, accident, or mistake which is satisfactorily ex-
plained; and where the rights of no other claimant or pre-emptor
are prejudiced, or where there is no adverse claim.

R. S. § 2462, mentioned in this section, was repealed by Act March 2, 1895,
c. 177, § 3, ante, § 707. The other sections of the Revised Statutes mentioned,
are set forth ante, §§ 5106-5111.
R. S. § 2455, mentioned in this section, was amended, so as no longer to
apply to suspended entries or locations, by Act Feb. 26, 1895, c. 133, and sub-
sequent amendments, as set forth ante, § 5110.

§ 5113. (Act March 3, 1891, c. 561, § 7.) Suspension of entries
for correction of clerical errors; patents.

Whenever it shall appear to the Commissioner of the General
Land Office that a clerical error has been committed in the entry
of any of the public lands such entry may be suspended, upon
proper notification to the claimant, through the local land office,
until the error has been corrected; and all entries made under the
preemption, homestead, desert-land, or timber-culture laws, in which
final proof and payment may have been made and certificates issued,
and to which there are no adverse claims originating prior to final
entry and which have been sold or incumbered prior to the first day
of March, eighteen hundred and eighty-eight, and after final entry,
to bona-fide purchasers, or incumbrancers, for a valuable considera-
tion, shall unless upon an investigation by a Government Agent,
fraud on the part of the purchaser has been found, be confirmed and
patented upon presentation of satisfactory proof to the Land De-
partment of such sale or incumbrance: Provided, That after the
lapse of two years from the date of the issuance of the receiver's
receipt upon the final entry of any tract of land under the homestead,
timber-culture, desert-land, or pre-emption laws, or under this
act, and when there shall be no pending contest or protest against
the validity of such entry, the entryman shall be entitled to a patent
conveying the land by him entered, and the same shall be issued to
him; but this proviso shall not be construed to require the delay of
two years from the date of said entry before the issuing of a patent
therefor. (26 Stat. 1098.)

This section was part of the act to repeal the timber-culture laws, cited
above.

Other sections of the act are set forth or referred to post, § 5116.

See notes to section 8 of the act, post, § 5114.

The pre-emption laws were repealed by Act March 3, 1891, c. 561, § 4, 26
Stat. 1097.

The homestead laws are set forth under chapter 5 of this Title.
The desert-land laws are set forth under chapter 6B of this Title.
The timber-culture laws were repealed by section 1 of this act, post, § 5116.

(2134)
§ 5114. (Act March 3, 1891, c. 561, § 8.) Limitations of suits to annul patents.

Suits by the United States to vacate and annul any patent here-tofore issued shall only be brought within five years from the passage of this act, and suits to vacate and annul patents hereafter issued shall only be brought within six years after the date of the issuance of such patents. (25 Stat. 1099.)

This provision was part of section 8 of the act to repeal the timber-culture laws, cited above.

See notes to section 7 of the act, ante, § 5113.

This section was amended by Act March 3, 1891, c. 559, but the amending act made no change in that part of the section set forth here. The remaining portion of this section is set forth ante, § 4992.

§ 5115. (Act March 9, 1904, c. 503, § 1.) Entries and final proofs, made out of proper land district by error of officers, confirmed.

Whenever it shall appear to the Commissioner of the General Land Office that an error has heretofore been made by the officers of any local land office in receiving any application, declaratory statement, entry, or final proof under the homestead or other land laws, and that there was no fraud practiced by the entryman, and that there are no prior adverse claimants to the land described in the entry, and that no other reason why the title should not vest in the entryman exists, except that said application, declaratory statement, entry, or proof was not made within the land district in which the lands applied for are situated, as provided by the Act of March eleventh, nineteen hundred and two, such entry or proof shall be confirmed. (33 Stat. 64.)

This section was part of an act entitled "An act relating to applications, declaratory statements, entries, and final proofs under the homestead and other land laws, and to confirm the same when made outside of the land district within which the land is situated."

Section 2 of the act provided that it should be in force from and after its passage and approval.

Act March 11, 1902, c. 182, mentioned in this section, amended R. S. § 2294, relating to the affidavits, proofs, etc., required to be made by applicants and entrymen under the homestead and various other laws, and is incorporated in that section as set forth ante, § 4546.

Entries or filings for lands in certain specified townships in Colorado are not to be canceled or held invalid because not allowed, made, or perfected in the proper land district, by Act March 28, 1908, c. 101, 35 Stat. 48.

Patents issued on certain applications were declared valid, and locations on similar applications on which no patents had issued are declared legal, by Act May 29, 1908, c. 220, § 12, 36 Stat. 463.

Provisions for change of entry where an entry, selection, or location was made of a tract of land not intended to be entered, by mistake as to the numbers of the tract, were made by R. S. § 2372, as amended by Act Feb. 24, 1909, c. 161, ante, § 4780.

TIMBER-CULTURE

(R. S. §§ 2458-2463. Transferred to Chapter 10F.)

These sections provided for the protection of live-oak and red-cedar timber on public lands. They are placed, with subsequent provisions for the protection
§ 5116. THE PUBLIC LANDS (Tit. 32)

of timber generally on such lands, ante, under chapter 10F of this Title, "Protection of Timber and Depredations," §§ 4977-4982.

(R. S. §§ 2464-2468. Repealed.)

These sections incorporated the then existing provisions of the timber-culture laws from Act March 3, 1873, c. 277, 17 Stat. 605. They were amended by Act March 13, 1874, c. 55, 18 Stat. 21, Act May 20, 1876, c. 102, 19 Stat. 54, Act Jan. 10, 1876, c. 134, 19 Stat. 69, and Act June 14, 1878, c. 190, 20 Stat. 113. This last act superseded all previous legislation on the subject, and was repealed by Act March 3, 1891, c. 561, § 1, post, § 5116, with a saving of all vested rights.

The provisions of said Act June 14, 1878, c. 190, were substantially as follows:

Section 1 provided that any person, the head of a family, or of the age of 21 years, a citizen of the United States, or who had filed his declaration of intention to become a citizen, who should plant, protect, and keep in a healthy, growing condition, for 8 years, 10 acres of timber on a quarter-section of the public lands, or 5 acres on any 80 acres, or 2½ acres on 40 acres or less, should be entitled to a patent for the whole of said 100, 80, or 40 or less acres, at the expiration of the 8 years, on making proof of such fact by not less than two credible witnesses; that no more than one quarter-section should be thus granted, and no person should be entitled to more than one entry under section 2 prescribed the affidavit on application for entry, the fees to be paid prior to entry, and designated the amount of work and cultivation to be done on the land during the first, second, third, and fourth years of occupation; provided for the extension of time for the cultivation of the land in case of the destruction of the crops or trees planted; and provided that no final certificate should be granted until the expiration of eight years from the date of entry. Section 3 provided that, in cases of failure to comply with the other sections of the act, the lands entered should be subject to entry under the homestead laws. Section 4 provided that lands acquired under the act should not become liable to the satisfaction of any debts contracted prior to the issuing of the final certificate therefor. Section 5 required the Commissioner of the General Land-Office to prepare rules and regulations to carry into effect the provisions of the act, and fixed the fees of the registers and receivers of the land-offices. Section 6 provided that R. S. § 5392, should apply to oaths, affirmations, and affidavits required by the act. Section 7 provided that parties who had made entries under former acts might complete their title by complying with the provisions of the act. Section 8 repealed all acts and parts of acts inconsistent with the act.

Claimants under the timber-culture laws were not required, in making final proof, to appear at the land-office, but might have the proof taken by a United States court commissioner, or a clerk of any court of record, under such rules and regulations as the Secretary of the Interior might prescribe, by Act March 4, 1896, c. 40, 29 Stat. 43.


That an act entitled "An act to amend an act entitled 'An act to encourage the growth of timber on the Western prairies,'" approved June fourteenth, eighteen hundred and seventy eight, and all laws supplementary thereto or amendatory thereof, be, and the same are hereby, repealed: Provided, That this repeal shall not affect any valid rights heretofore accrued or accruing under said laws, but all bona fide claims lawfully initiated before the passage of this act may be perfected upon due compliance with law, in the same manner, upon the same terms and conditions, and subject to the same

(2136)
limitations, forfeitures, and contests as if this act had not been passed: And provided further, That the following words of the last clause of section two of said act, namely, "That not less than twenty-seven hundred trees were planted on each acre," are hereby repealed: And provided further, That in computing the period of cultivation the time shall run from the date of the entry, if the necessary acts of cultivation were performed within the proper time: And provided further, That the preparation of the land and the planting of trees shall be construed as acts of cultivation, and the time authorized to be so employed and actually employed shall be computed as a part of the eight years of cultivation required by statute: And provided further, That if trees, seeds, or cuttings were in good faith planted as provided by law and the same and the land upon which so planted were thereafter in good faith cultivated as provided by law for at least eight years by a person qualified to make entry and who has a subsisting entry under the timber culture laws, final proof may be made without regard to the number of trees that may have been then growing on the land. Provided, That any person who has made entry of any public lands of the United States under the timber-culture laws, and who has for a period of four years in good faith complied with the provisions of said laws and who is an actual bona fide resident of the State or Territory in which said land is located shall be entitled to make final proof thereto, and acquire title to the same, by the payment of one dollar and twenty five cents per acre for such tract, under such rules and regulations as shall be prescribed by the Secretary of the Interior, and registers and receivers shall be allowed the same fees and compensation for final proofs in timber-culture entries as is now allowed by law in homestead entries: And provided further, That no land acquired under the provisions of this act shall in any event become liable to the satisfaction of any debt or debts contracted prior to the issuing of the final certificate therefor. (26 Stat. 1095. 27 Stat. 593.)

This section was the first section of an act entitled "An act to repeal timber-culture laws, and for other purposes," cited above. The section was amended by Act March 3, 1893, c. 208, cited above, by adding to the fourth proviso thereof the further proviso following it, as set forth here.

Section 2 of the original act amended Act March 3, 1877, c. 107, by adding to that act §§ 4-8 thereof, ante, §§ 4677-4680.

Section 3 amended R. S. § 2288, and is incorporated in that section as set forth ante, § 4535.

Section 4 repealed the pre-emption laws. See note to chapter 4 of this Title.

Section 5 amended R. S. §§ 2299, 2290, and is incorporated in those sections as set forth ante, §§ 4539, 4531.

Section 6 amended R. S. § 2301, and is incorporated in that section as set forth ante, § 4589.

Section 7 provided for suspension of entries of public lands for correction of clerical errors, and for issue of patents in cases where there was no adverse claim and no pending contest. It is set forth ante, § 5113.

The first portion of section 8, limiting the time for bringing suits to annul patents, is set forth ante, § 5114. The remaining portion, relating to
timber depredations, is set forth, as amended by Act March 3, 1891, and subsequent acts, ante, § 4902.
Section 9 provided that public lands, with some exceptions, should not be sold at public sale. It is set forth ante, § 4753.
Section 10 prescribed the effect of the act on agreements, etc., with Indian tribes for the disposal of their lands, etc. It is set forth ante, § 5018.
Sections 11-14 related to town-sites, and purchases for trade purposes, in Alaska. They are set forth ante, §§ 5079-5082.
Section 15 reserved certain islands in Alaska for the Indians. It is omitted as local.
Section 16 related to town-site entries on mineral lands, and is set forth ante, § 789.
Section 17 restricted locations of reservoir sites on the public lands. It is set forth ante, § 4698.
Sections 18-21 granted rights of way through the public lands for canals, ditches, etc. They are set forth ante, §§ 4934-4987.
Sections 22 and 23 were local in their nature, and are omitted.
Section 24 authorized the President to set apart forest reservations. It is set forth post, § 6121.

EVIDENCES OF TITLE

(R. S. §§ 2469, 2470. Transferred to Title XI, Chapter 3.)

R. S. § 2469, required the Commissioner of the General Land-Office to certify copies of records, books, and papers on file in his office, to be used in evidence, and R. S. § 2470, provided that literal exemplifications of such records granted in virtue of said preceding section should be deemed of the same validity in all proceedings at law or in equity as if the names of the officers signing and countersigning the same had been fully inserted in such record. Both sections are placed, with subsequent provisions for the authentication and certification of such copies by the Recorder, as well as by the Commissioner of the General Land Office, under Title XI, "The Department of the Interior," chapter 8, "The General Land Office," ante, §§ 700, 710.

§ 5117. (R. S. § 2471.) The false making, altering, etc., of any instrument in writing, etc., concerning lands, etc., in California; penalty.

Every person who falsely makes, alters, forges, or counterfeits, or causes or procures to be falsely made, altered, forged, or counterfeited; or willingly aids and assists in the false making, altering, forging, or counterfeiting any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title-paper, or evidence of right, title, or claim to lands, mines, or minerals in California, or any instrument of writing whatever in relation to lands or minerals in the State of California, for the purpose of setting up or establishing against the United States any claim, right, or title to lands, mines, or minerals within the State of California, or for the purpose of enabling any person to set up or establish any such claim; and every person, who, for such purpose, utters or publishes as true and genuine any such false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title-paper, evidence of right, title, or claim to lands or minerals in the State of California, or any instrument of writing whatever in relation to lands or minerals in the State of California, shall be punishable by imprisonment at hard labor not less (2138)
than three years and not more than ten years, and by a fine of not more than ten thousand dollars.

Act May 18, 1858, c. 40, § 1, 11 Stat. 290.

Removing without authority, or altering, etc., records in the surveyor-general's office in California, and depositing fraudulent papers among the archives of the office, were made punishable by R. S. §§ 5411, 5412. Those sections were not incorporated into the Criminal Code, with other penal provisions apparently because regarded as obsolete.

§ 5118. (R. S. § 2472.) Falsely dating any evidence of title under Mexican authority, etc., to lands in California; penalty.

Every person who makes, or causes or procures to be made, or willingly aids and assists in making any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, or any title-paper, or written evidence of right, title, or claim, under Mexican authority, to any lands, mines, or minerals in the State of California, or any instrument of writing in relation to lands or mines or minerals in the State of California, having a false date, or falsely purporting to be made by any Mexican officer or authority prior to the seventh day of July, eighteen hundred and forty-six, for the purpose of setting up or establishing any claim against the United States to lands or mines or minerals within the State of California, or of enabling any person to set up or establish any such claim; and every person who signs his name as governor, secretary, or other public officer acting under Mexican authority, to any instrument of writing falsely purporting to be a grant, concession, or denouncement under Mexican authority, and during its existence in California, of lands, mines, or minerals, or falsely purporting to be an informe, report, record, confirmation, or other proceeding on an application for a grant, concession, or denouncement under Mexican authority, during its existence in California, of lands, mines, or minerals, shall be punishable as prescribed in the preceding section.

Act May 18, 1858, c. 40, § 2, 11 Stat. 291.

See note to R. S. § 2471, ante, § 5117.

§ 5119. (R. S. § 2473.) Presenting false or counterfeited evidences of title, etc., to lands in California, and prosecuting suits thereon; penalty.

Every person who, for the purpose of setting up or establishing any claim against the United States to lands, mines, or minerals within the State of California, presents, or causes or procures to be presented, before any court, judge, commission, or commissioner, or other officer of the United States, any false, forged, altered, or counterfeited petition, certificate, order, report, decree, concession, denouncement, deed, patent, diseño, map, expediente or part of an expediente, title-paper, or written evidence of right, title, or claim to lands, minerals, or mines in the State of California, knowing the same to be false, forged, altered, or counterfeited, or any falsely dated petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title-paper, or written evidence of right, title, or claim to lands, mines, or
§ 5119  THE PUBLIC LANDS

minerals in California, knowing the same to be falsely dated; and every person who prosecutes in any court of the United States, by appeal or otherwise, any claim against the United States for lands, mines, or minerals in California, which claim is founded upon, or evidenced by, any petition, certificate, order, report, decree, concession, denouncement, deed, patent, confirmation, diseño, map, expediente or part of an expediente, title-paper, or written evidence of right, title, or claim, which has been forged, altered, counterfeited, or falsely dated, knowing the same to be forged, altered, counterfeited, or falsely dated, shall be punishable as prescribed in section twenty-four hundred and seventy-one.

Act May 18, 1858, c. 40, § 8, 11 Stat. 291.
See note to R. S. § 2471, ante, § 5117.

ENFORCEMENT OF PROVISIONS

(R. S. §§ 2474, 2475. Transferred to Title XXXII B.)

R. S. § 2474, established and defined the boundaries of the Yellowstone Park, and R. S. § 2475, placed the park under exclusive control of the Secretary of the Interior, and authorized regulations by him for its protection, removal of trespassers, etc. Both these sections are placed with subsequent provisions relating to said park, and provisions relating to other parks, etc., under Title XXXII B, "The National Parks, Reservations, and Monuments," §§ 6188, 6189.

(R. S. §§ 2476, 2477. Transferred to Chapter 10C.)

R. S. § 2476, provided that navigable rivers, within the territory occupied by the public lands, should be public highways. R. S. § 2477, granted rights of way for highways over public lands. Both these sections were placed, with subsequent provisions relating to such rights of way, ante, under chapter 10C of this Title, "Rights of Way and Other Easements in Public Lands," §§ 4918, 4919.

§ 5120. (R. S. § 2478.) Power of Commissioner of Land-Office to enforce this Title.

The Commissioner of the General Land-Office, under the direction of the Secretary of the Interior, is authorized to enforce and carry into execution, by appropriate regulations, every part of the provisions of this Title not otherwise specially provided for.

(R. S. §§ 2479–2484. Transferred to Chapter 10D.)

R. S. § 2479, granted to the several States, with some exceptions, the swamp and overflowed lands therein; and R. S. §§ 2480–2484, provided for the selection, location, etc., of such lands, and the issue of patents therefor. All these sections are placed, with other provisions relating to the lands so granted, ante, under chapter 10D of this Title, "Swamp and Overflowed Lands," §§ 4958–4963.

(R. S. §§ 2485–2487. Transferred to Chapter 10A.)

R. S. §§ 2485–2487, confirmed to the State of California all selections of lands by that State made prior to July 23, 1866, and theretofore sold by the State to bona fide purchasers. These sections are placed, with other provisions relating to grants to States, etc., ante, under chapter 10A of this Title, "Reservations and Grants to States for Public Purposes," §§ 4878–4880.

(R. S. § 2488. Transferred to Chapter 10D.)

R. S. § 2488, made special provisions for certifying to the State of California swamp and overflowed lands in certain cases. It is placed, with R. S. (2140)
THE PUBLIC LANDS

§§ 2479-2484, relating to grants of such lands, ante, under chapter 10D of this Title, "Swamp and Overflowed Lands," § 4964.

(R. S. § 2489. Temporary.)

R. S. § 2489, incorporated the provisions of Act July 23, 1866, c. 219, § 5, 14 Stat. 220, requiring the local land offices in California immediately to forward lists of selections made by the State under swamp land and other grants, to the General Land Office for final disposition and determination, which final disposition should be made by the Commissioner of the General Land Office without delay. The section is omitted as temporary merely, and executed.

(R. S. § 2490. Transferred to Chapter 10D.)

R. S. § 2490, extended the provisions of the Swamp Land Act of Sept. 28, 1850, c. 84, 9 Stat. 520, to the States of Minnesota and Oregon. It is placed, with R. S. §§ 2479-2484, in which said Swamp Land Act was incorporated, ante, under Chapter 10D of this Title, "Swamp and Overflowed Lands," § 4965.
TITLE XXXII A
THE NATIONAL FORESTS

This title, inserted here as additional to the original titles of the Revised Statutes, includes Act March 3, 1891, c. 561, § 24, Act June 4, 1897, c. 2, § 1, and subsequent acts amendatory thereof or supplemental thereto, relating to the reservation of public lands to protect the forests, secure favorable conditions of water flows, and furnish a continuous supply of timber, and to the management and administration of the lands so reserved. These reservations were originally termed Forest Reserves, or Forest Reservations, but by Act March 4, 1907, c. 2907, 34 Stat. 1260, thereafter forest reserves were to be known as National Forests.

This title also includes Act March 1, 1911, c. 186, authorising co-operation between the States, or between the several States and the United States, for the protection of the watersheds of navigable streams, and providing for a National Forest Reservation Commission to recommend the purchase of lands needed as National Forests for the protection of such watersheds.

<table>
<thead>
<tr>
<th>Sec.</th>
<th>5121. Establishment of forest reserves.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>5122. Forest reserves to be known as national forests.</td>
</tr>
<tr>
<td></td>
<td>5123. (1) Revocation of orders or proclamations establishing forest reserves.</td>
</tr>
<tr>
<td></td>
<td>5124. (2) Surveys; plans and field notes; maps.</td>
</tr>
<tr>
<td></td>
<td>5125. (3) Purposes for which forest reserves may be established and administered.</td>
</tr>
<tr>
<td></td>
<td>5126. (4) Protection of forest reserves; rules and regulations therefor.</td>
</tr>
<tr>
<td></td>
<td>5127. (5) Sale of timber.</td>
</tr>
<tr>
<td></td>
<td>5128. (6) Use of timber and stone by settlers.</td>
</tr>
<tr>
<td></td>
<td>5129. (7) Egress or ingress of actual settlers; prospecting.</td>
</tr>
<tr>
<td></td>
<td>5130. (9) Sites for schools and churches.</td>
</tr>
<tr>
<td></td>
<td>5131. (10) Civil and criminal jurisdiction.</td>
</tr>
<tr>
<td></td>
<td>5132. (11) Use of waters.</td>
</tr>
<tr>
<td></td>
<td>5133. (12) Mineral lands; restoration to public domain; location and entry.</td>
</tr>
<tr>
<td></td>
<td>5134. Modification or vacation of executive orders; reduction of area; change of boundaries.</td>
</tr>
<tr>
<td></td>
<td>5135. No forest reserves to be created, and no additions thereto to be made hereafter, within certain states, except by act of Congress.</td>
</tr>
<tr>
<td></td>
<td>5136. Establishment of exterior boundaries of forest reserves.</td>
</tr>
</tbody>
</table>

(2142)
THE NATIONAL FORESTS

tit. 32a)

5148. Reimbursement to owners of horses, etc., damaged or destroyed while fire-fighting, trail building, etc.

5149. Payment of part of money received from each forest reserve to State or Territory for public schools and public roads.

5150. Additional expenditures from receipts for construction and maintenance of roads and trails; co-operation with State authorities.

5151. Free use of timber for telephone lines needed for fire protection.

5152. Forest supervisors and rangers; selection.

5153. Arrests for violations of laws and regulations relating to forest reserves and national parks, and proceedings thereon.

5154. Officials of Forest Service to aid in enforcement of local laws for certain purposes, and to aid other federal bureaus and departments in the performance of their duties.

5155. Leaves of absence to employees of the Forest Service in Alaska.

5156. Areas in Wichita Forest Reserve to be set aside for protection as breeding place for game animals and birds.

5157. Hunting, trapping, killing, or capturing game animals or birds, within areas set aside, unlawful; penalty.

5158. Operation of local game laws as to private, State, or Territorial lands, not affected by this act.

5159. Areas in Grand Canyon Forest Reserve to be set aside for protection of game animals as breeding place thereof.

5160. Hunting, trapping, killing, or capturing game animals, within areas set aside, unlawful; penalty.

5161. Operation of local game laws as to private, State or Territorial lands, not affected by this act.

5162. Agricultural lands within forest reserves to be opened to homestead entry; preference rights of former settlers and of applicants; plates and field notes to be filed and posted; surveys; commutation provisions not to apply; credit for actual residence.

5163. Amendment of Act June 11, 1906, c. 3074, § 1; exception from provisions of certain counties of California stricken out.

5164. Land not to pass from forest until patent issues.

5165. Additional homestead right of entry to former settlers; payment of price of lands required.

5166. Entries in Black Hills Forest Reserve subject to mining laws and to appropriation of waters; limitation of title acquired as to riparian rights.

5167. Homestead settlements or entries not allowed in certain portion of Black Hills Forest Reserve, except to give title to former settlers.

5168. Certain townships excepted from provisions of section 4 of act providing for entry of agricultural lands.

5169. Certain other townships excepted from provisions of section 4 of act providing for entry of agricultural lands.

5170. Act not to be construed to authorize future settlements on lands within forest reserves, or to impair rights of former bona fide settlers.

5171. Reinstatement of entries canceled or relinquished because of erroneous allowance after withdrawal of land for national forest purposes.

5172. Contestants prior to withdrawal of land for national forest purposes authorized to exercise preference right to enter.

5173. Segregation of lands for homestead entry; surveys, plats and field notes of agricultural lands to be made by employees of the Forest Service.

5174. Consent to agreement by States for conservation of forests and water supply.

5175. Appropriation for co-operation with States for protection from fire of forested watersheds of navigable streams; agreements with States for system of fire protection; State law required; limitation of expenditure.

5176. Appropriations for examination, survey, and acquisition of
§ 5121. THE NATIONAL FORESTS

Sec. 5177. National Forest Reservation Commission; creation and composition; authority as to purchase of lands under act; service of members; vacancies.

Sec. 5178. Annual reports of Commission.

Sec. 5179. Examination, etc., of lands for purchase and report by Secretary of Agriculture; examination and report by Geological Survey.

Sec. 5180. Purchase of lands approved by Commission; consent of State.

Sec. 5181. Title to lands to be acquired.

Sec. 5182. Acquisition of lands not defeated by rights of way, easements and reservations which will not interfere with purposes of this act; rights of way, etc., to be subject to rules and regulations.

Sec. 5183. Agricultural lands included in tracts acquired; sale as homesteads; jurisdiction of lands sold to revert to state; no rights, etc., to lands acquired, waters thereon, etc., except as provided in this section.

Sec. 5184. Lands acquired to be reserved, etc., as national forest lands; division into and designation, as specific national forests.

Sec. 5185. State jurisdiction over persons on lands acquired not affected, except as to punishment of offenses against United States.

Sec. 5186. Payment of 5 per cent. of receipts from each national forest to state for benefit of county public schools and roads; limitation of payment for any one county.

Sec. 5187. Appropriation for expenses of Commission; payments.

§ 5121. (Act March 3, 1891, c. 561, § 24.) Establishment of forest reserves.

The President of the United States may, from time to time, set apart and reserve, in any State or Territory having public land bearing forests, in any part of the public lands wholly or in part covered with timber or undergrowth, whether of commercial value or not, as public reservations, and the President shall, by public proclamation, declare the establishment of such reservations and the limits thereof. (26 Stat. 1103.)

This section was part of the act to repeal the timber-culture laws, cited above. Other sections of the act are set forth or referred to ante, § 5116.

This section was expressly excepted from repeal by Act Aug. 4, 1892, c. 275, § 3, ante, § 4634. Section 1 of said act, ante, § 4633, provided for the entry of building-stone lands in accordance with the provisions of the placer-mining laws. Section 2, ante, § 4673, provided for the sale of timber and stone lands.

The President was authorized to revoke, modify, or suspend executive orders and proclamations designating forest reserves, by provisions of Act June 4, 1897, c. 2, § 1 (1), post, § 5123.

Before the passage of this section certain tracts of land in the State of California had been set apart as reserved forest lands, by Act Oct. 1, 1890, c. 1263, post, §§ 5215a-5211. And certain lands were segregated from Yosemite National Park, and were also set apart as reserved forest lands, by Act Feb. 7, 1905, c. 547, post, §§ 5212, 5213, and by Res. June 11, 1906, No. 27, post, §§ 5214-5216, accepting the recession by the State of California of the Yosemite Valley and the Mariposa Big Tree Grove, and setting apart said tracts and other lands as reserved forest lands.

Numerous special provisions for the disposition of Indian reservation lands either set apart a portion of such lands as a national forest, as though set apart by proclamation of the President under this section, and subsequent laws amending and supplementing the same, or authorised the President to set apart a portion thereof, as he might deem proper, to constitute a national forest or to be added to such a forest already existing.

A national forest in the state of Minnesota was created by Act May 23, 1908, c. 103, 35 Stat. 203.

By provision of Act March 4, 1907, c. 2907, post, § 5122, no national forest (2144)
is to be created thereafter, nor are any additions to be made to one theretofore created, in the States of Oregon, Washington, Idaho, Montana, Colorado, or Wyoming, except by act of Congress.

The Secretary of Agriculture is to execute, or cause to be executed, all laws affecting public lands reserved under this section, and acts supplemental to and amendatory thereof, after such lands have been so reserved, except such laws as affect the surveying, etc., entering, etc., or patenting of any of such lands, by Act Feb. 1, 1905, c. 288, § 1, ante, § 823. The supervision of the national forests was thereby transferred from the Secretary of the Interior to the Secretary of Agriculture.

Agricultural lands within national forests may be opened to homestead entry, by Act June 11, 1906, c. 3074, § 1, post, § 5162.

Provisions for protection of wild animals and birds in certain national forests were made by Act Jan. 24, 1905, c. 137, and Act June 29, 1906, c. 3583, post, §§ 5154-5161. And provisions for protection of birds and their eggs on lands set apart or reserved as breeding grounds for birds were made by Act June 28, 1906, c. 3565, and were incorporated into the Criminal Code, in section 84 thereof, post, § 10282.

§ 5122. (Act March 4, 1907, c. 2907.) Forest reserves to be known as national forests.

General Expenses, Forest Service: To enable the Secretary of Agriculture to experiment and to make and continue investigations and report on forestry, forest reserves, which shall be known hereafter as national forests, * * (34 Stat. 1269.)

This was a provision of the agricultural appropriation act for "General Expenses, Forest Service," for the fiscal year 1906, cited above.

§ 5123. (Act June 4, 1897, c. 2, § 1.) (1) Revocation of orders or proclamations establishing forest reserves.

For the survey of the public lands that have been or may hereafter be designated as forest reserves by Executive proclamation, under section twenty-four of the Act of Congress approved March third, eighteen hundred and ninety-one, entitled "An Act to repeal timber-culture laws, and for other purposes," and including public lands adjacent thereto, which may be designated for survey by the Secretary of the Interior, one hundred and fifty thousand dollars, to be immediately available: Provided, That, to remove any doubt which may exist pertaining to the authority of the President thereunto, the President of the United States is hereby authorized and empowered to revoke, modify, or suspend any and all such Executive orders and proclamations, or any part thereof, from time to time as he shall deem best for the public interests: Provided, That the Executive orders and proclamations dated February twenty-second, eighteen hundred and ninety-seven, setting apart and reserving certain lands in the States of Wyoming, Utah, Montana, Washington, Idaho, and South Dakota as forest reservations, be, and they are hereby, suspended, and the lands embraced therein restored to the public domain the same as though said orders and proclamations had not been issued: Provided further, That lands embraced in such reservations not otherwise disposed of before March first, eighteen hundred and ninety-eight, shall again become subject to the operations of said orders and
proclamations as now existing or hereafter modified by the President.
(30 Stat. 34.)

The proclamations referred to were those of Feb. 22, 1897, Nos. 19–31.
29 Stat. 803–812. They were issued under the authority conferred by Act

These provisions and those of the eleven paragraphs next following were part
of section 1 of the sundry civil appropriation act for the fiscal year 1896,
cited above.

The Secretary of the Interior was authorized to file and approve surveys
and plats of any right of way for a wagon road, railroad, or other highway
over and across any national forests when, in his judgment, the public in-
terests would not be injuriously affected thereby, by Act March 3, 1896, c. 427,
§ 1, ante, § 4945. He may also grant rights of way through the national
forests for electrical plants, poles, and lines for the generation and distribu-
tion of electrical power, for telephone and telegraph purposes, for canals,
ditches, pipes, and pipe lines, flumes, tunnels, or other water conduits, and for
water plants, dams, and reservoirs used to promote irrigation or mining or
quarrying, or the manufacturing or cutting of timber or lumber, or the sup-
plying of water for domestic, public, or any other beneficial uses, by Act Feb.
15, 1901, c. 372, ante, § 4946.

All laws, rules, and regulations affecting national forests, including the right
to change the boundaries thereof by executive proclamation, are in force
within the territory excluded from the Yosemite National Park and included
in the Sierra National Forest by Act Feb. 7, 1905, c. 547, by a provision of
section 2 of that act, post, § 5213.

§ 5124. (Act June 4, 1897, c. 2, § 1.) (2) Surveys; plats and field
notes; maps.

The surveys herein provided for shall be made, under the supervision of
the Director of the Geological Survey, by such person or persons
as may be employed by or under him for that purpose, and shall be
executed under instructions issued by the Secretary of the Interior;
and if subdivision surveys shall be found to be necessary, they shall be
executed under the rectangular system, as now provided by law. The
plats and field notes prepared shall be approved and certified to by the
Director of the Geological Survey, and two copies of the field notes
shall be returned, one for the files in the United States surveyor-gen-
eral's office of the State in which the reserve is situated, the other in
the General Land Office; and twenty photolithographic copies of the
plats shall be returned, one copy for the files in the United States sur-
veyor-general's office of the State in which the reserve is situated; the
original plat and the other copies shall be filed in the General Land
Office, and shall have the facsimile signature of the Director of the
Survey attached. Such surveys, field notes, and plats thus returned
shall have the same legal force and effect as heretofore given the sur-
veys, field notes, and plats returned through the surveyors-general;
and such surveys, which include subdivision surveys under the rect-
gle system, shall be approved by the Commissioner of the General
Land Office as in other cases, and properly certified copies thereof
shall be filed in the respective land offices of the districts in which such
lands are situated, as in other cases. All laws inconsistent with the
provisions hereof are hereby declared inoperative as respects such sur-
vey: Provided, however, That a copy of every topographic map and
other maps showing the distribution of the forests, together with such
field notes as may be taken relating thereto, shall be certified thereto by

(2146)
the Director of the Survey and filed in the General Land Office. (30 Stat. 34.)

See notes to the preceding paragraph of this section, ante, § 5123.

§ 5125. (Act June 4, 1897, c. 2, § 1.) (3) Purposes for which forest reserves may be established and administered.

All public lands heretofore designated and reserved by the President of the United States under the provisions of the Act approved March third, eighteen hundred and ninety-one, the orders for which shall be and remain in full force and effect, unsuspended and unrevoked, and all public lands that may hereafter be set aside and reserved as public forest reserves under said Act, shall be as far as practicable controlled and administered in accordance with the following provisions: no public forest reservation shall be established, except to improve and protect the forest within the reservation, or for the purpose of securing favorable conditions of water flows, and to furnish a continuous supply of timber for the use and necessities of citizens of the United States; but it is not the purpose or intent of these provisions, or of the Act providing for such reservations, to authorize the inclusion therein of lands more valuable for the mineral therein, or for agricultural purposes, than for forest purposes. (30 Stat. 34.)

See note to the first paragraph of this section, ante, § 5123.

Act March 3, 1891, c. 561, § 24, mentioned in this section, is set forth ante, § 5121.

§ 5126. (Act June 4, 1897, c. 2, § 1.) (4) Protection of forest reserves; rules and regulations therefor.

The [Secretary of the Interior] shall make provisions for the protection against destruction by fire and depredations upon the public forests and forest reservations which may have been set aside or which may be hereafter set aside under the said Act of March third, eighteen hundred and ninety-one, and which may be continued; and he may make such rules and regulations and establish such service as will insure the objects of such reservations, namely, to regulate their occupancy and use and to preserve the forests thereon from destruction; and any violation of the provisions of this Act or such rules and regulation shall be punished as is provided for in the Act of June fourth, eighteen hundred and eighty-eight, amending section fifty-three hundred and eighty-eight of the Revised Statutes of the United States. (30 Stat. 35.)

See note to the first paragraph of this section, ante, § 5123.

Act March 3, 1891, c. 561, § 24, mentioned in this section, is set forth ante, § 5121.

Act June 4, 1888, c. 340, amending R. S. § 5388, also mentioned in this section, was incorporated in Crim. Code, § 50, post, § 10217, and was repealed by section 341, of said Code, post, § 10515.

Instead of the Secretary of the Interior, who was authorised by various provisions of this section to protect, preserve, and regulate the use of national forests set aside under Act March 3, 1891, c. 561, § 24, ante, § 5121, the Secretary of Agriculture is to execute, or cause to be executed, all laws affecting lands reserved under said Act March 3, 1891, and acts supplemental to and amendatory thereof, by Act Feb. 1, 1905, c. 288, § 1, ante, § 822.

The following general provisions relating to the management of the na-
tional forests were contained in the agricultural appropriation act for the fiscal year 1914, Act March 4, 1913, c. 145, 37 Stat. 838:

"General expenses, Forest service: To enable the Secretary of Agriculture to experiment and to make and continue investigations and report on forestry, forest fires, national forests, and lumbering, but no part of this appropriation shall be used for any experiment or test made outside the jurisdiction of the United States; to advise the owners of woodlands as to the proper care of the same; to investigate and test American timber and timber trees and their uses, and methods for the preservative treatment of timber; to seek, through investigations and the planting of native and foreign species, suitable trees for the treeless regions; to erect necessary buildings: Provided that the cost of any building erected shall not exceed $500: And provided further, That no part of the appropriation made by this act shall be used for the construction, repair, maintenance or use of buildings or improvements made for forest ranger stations within the enclosed fields of bona fide homestead settlers who have established residence upon their homestead lands prior to the date of the establishment of the forest reservation in which the homestead lands are situated, without the consent of the homesteader; to pay all expenses necessary to protect, administer, and improve the national forests; to ascertain the natural conditions upon and utilize the national forests; and the Secretary of Agriculture may, in his discretion, permit timber and other forest products cut or removed from the national forests to be exported from the State, Territory, or the District of Alaska in which said forests are respectively situated; to transport and care for fish and game supplied to stock the national forests or the waters therein; to employ agents, clerks, assistants, and other labor required in practical forestry and in the administration of national forests, in the city of Washington and elsewhere; to collate, digest, report, and illustrate the results of experiments and investigations made by the Forest Service; to purchase necessary supplies, apparatus, and office fixtures, and technical books and technical journals for officers of the Forest Service stationed outside of Washington; to pay freight, express, telephone, and telegraph charges: for electric light and power, fuel, gas, ice, washing towels, and official traveling and other necessary expenses, including traveling expenses for legal and fiscal officers while performing Forest Service work; and for rent outside of the District of Columbia; " * *"

Provisions somewhat similar were contained in previous agricultural appropriation acts.

The Secretary of Agriculture was authorized to furnish young trees to residents of that part of Nebraska covered by the Kinkaid Enlarged Homestead Act, by the agricultural appropriation act for the fiscal year 1914, Act March 4, 1913, c. 145, 37 Stat. 840, and by similar provisions in previous agricultural appropriation acts.

§ 5127. (Act June 4, 1897, c. 2, § 1, as amended, Act June 6, 1900, c. 804.) (5) Sale of timber.

For the purpose of preserving the living and growing timber and promoting the younger growth on forest reservations, the [Secretary of the Interior], under such rules and regulations as he shall prescribe, may cause to be designated and appraised so much of the dead, matured, or large growth of trees found upon such forest reservations as may be compatible with the utilization of the forests thereon, and may sell the same for not less than the appraised value in such quantities to each purchaser as he shall prescribe, to be used in the State or Territory in which such timber reservation may be situated, respectively, but not for export therefrom. Before such sale shall take place notice thereof shall be given by the [Commissioner of the General Land Office], for not less than thirty days, by publication in one or more newspapers of general circulation, as he may deem

(2148)
necessary, in the State or Territory where such reservation exists:
Provided, however, That in cases of unusual emergency the [Secretary of the Interior] may, in the exercise of his discretion, permit the purchase of timber and cord wood in advance of advertisement of sale at rates of value approved by him and subject to payment of the full amount of the highest bid resulting from the usual advertisement of sale: Provided further, That he may, in his discretion, sell without advertisement, in quantities to suit applicants, at a fair appraisement, timber and cord wood not exceeding in value one hundred dollars stumpage: And provided further, That in cases in which advertisement is had and no satisfactory bid is received, or in cases in which the bidder fails to complete the purchase, the timber may be sold, without further advertisement, at private sale, in the discretion of the Secretary of the Interior, at not less than the appraised valuation, in quantities to suit purchasers: And provided further, That the provisions of this Act shall not apply to existing forest reservations in the State of California, or to reservations that may be hereafter created within said State; payments for such timber to be made to the receiver of the local land office of the district wherein said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe; and the moneys arising therefrom shall be accounted for by the receiver of such land office to the [Commissioner of the General Land Office], in a separate account, and shall be covered into the Treasury. Such timber, before being sold, shall be marked and designated, and shall be cut and removed under the supervision of some person appointed for that purpose by the [Secretary of the Interior], not interested in the purchase or removal of such timber nor in the employment of the purchaser thereof. Such supervisor shall make report in writing to the [Commissioner of the General Land Office] and to the receiver in the land office in which such reservation shall be located of his doings in the premises. (30 Stat. 35. 31 Stat. 661.)

This paragraph was amended by Act June 6, 1900, c. 804, cited above by striking out the following paragraph: "Before such sale shall take place, notice thereof shall be given by the Commissioner of the General Land Office, for not less than sixty days, by publication in a newspaper of general circulation, published in the county in which the timber is situated, if any is therein published, and if not, then in a newspaper of general circulation published nearest to the reservation, and also in a newspaper of general circulation published at the capital of the State or Territory where such reservation exists," and inserting in lieu thereof the paragraph beginning with the words "Before such sale shall take place," and ending with the words "or to reservations that may be hereafter created within said State."

See notes to the first paragraph of this section, ante, § 5128.

See, also, note to preceding paragraph, ante, § 5126, as to the transfer of authority over the national forests from the Secretary of the Interior to the Secretary of Agriculture.

§ 5128. (Act June 4, 1897, c. 2, § 1.) (6) Use of timber and stone by settlers.

The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber and stone found upon such reservations, free of charge, by bona fide settlers, miners, residents, and
prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and other domestic purposes, as may be needed by such persons for such purposes; such timber to be used within the State or Territory, respectively, where such reservations may be located. (30 Stat. 35.)

See notes to the first paragraph of this section, ante, § 5123.

See, also, note to the fourth paragraph, ante, § 5126, as to the transfer of authority over the national forests from the Secretary of the Interior to the Secretary of Agriculture.

The use of earth, stone, and timber from the national forests in the construction of irrigation works under the National Reclamation Act of June 17, 1902, c. 1093, ante, §§ 4700-4708, was authorized by Act Feb. 8, 1906, c. 552. ante, § 4741.

§ 5129. (Act June 4, 1897, c. 2, § 1.) (7) Egress or ingress of actual settlers; prospecting.

Nothing herein shall be construed as prohibiting the egress or ingress of actual settlers residing within the boundaries of such reservations, or from crossing the same to and from their property or homes; and such wagon roads and other improvements may be constructed thereon as may be necessary to reach their homes and to utilize their property under such rules and regulations as may be prescribed by the Secretary of the Interior. Nor shall anything herein prohibit any person from entering upon such forest reservations for all proper and lawful purposes, including that of prospecting, locating, and developing the mineral resources thereof: Provided, That such persons comply with the rules and regulations covering such forest reservations. (30 Stat. 36.)

See notes to the first paragraph of this section, ante, § 5123.

See, also, note to the fourth paragraph, ante, § 5126, as to the transfer of authority over the national forests from the Secretary of the Interior to the Secretary of Agriculture.

In Act June 4, 1897, c. 2, § 1, the provisions set forth in this section were followed by provisions that in cases in which a tract of land covered by an unperfected bona fide claim, or by a patent, was included within the limits of a national forest, the settler or owner might relinquish the tract to the Government and select in lieu thereof a tract of vacant land open to settlement. Such selections were confined to vacant surveyed non-mineral public lands which were subject to homestead entry, not exceeding in area the tract covered by the claim or patent, by Act June 30, 1890, c. 791, § 1, 31 Stat. 614, and Act March 3, 1901, c. 831, § 1, 31 Stat. 1037. All of these provisions for the relinquishment, selection, and patenting of such lieu lands were repealed, with a saving of selections theretofore made, by Act March 3, 1905, c. 1495, 33 Stat. 1264.

Provisions for the relief of bona fide settlers in national forests created under Act March 3, 1891, c. 561, § 24, ante, § 5121, who had failed to place their claims of record within the statutory time, whereby the filing of such claims was permitted within a period of two years from the passage of the act, were contained in Act April 15, 1902, c. 507, 32 Stat. 106; the time limited thereby expiring April 15, 1904.

Private lands in the area included in the Sierra National Forest by Act Feb. 7, 1906, c. 547, have not the privileges of the lieu-land scrip provisions of the land laws, by section 2 of that act, post, § 5213. And the same provision as to lands included in said forest by Res. June 13, 1906, No. 27, was made by section 2 of said resolution, post, § 6215.

On the opening to homestead entry of agricultural lands within national forests settlers actually occupying and in good faith claiming such lands for
agricultural purposes prior to Jan. 1, 1906, have a preference right of settlement and entry, by Act June 11, 1906, c. 3074, § 1, post, § 5182. Settlers and owners of tracts within the Wind Cave National Park established by Act Jan. 9, 1903, c. 63, may relinquish them and secure other land, in accordance with the provisions for relinquishment of lands in national forests by section 5 of that act, post, § 5235. Homestead entries canceled or relinquished or invalid solely because of erroneous allowance after withdrawal of the lands for national forest purposes may be reinstated, by provisions of Act March 3, 1911, c. 225, post, §§ 5171, 5172.

(§) Repealed.)

See notes to § 5129, ante.

§ 5130. (Act June 4, 1897, c. 2, § 1.) (9) Sites for schools and churches.

The settlers residing within the exterior boundaries of such forest reservations, or in the vicinity thereof, may maintain schools and churches within such reservation, and for that purpose may occupy any part of the said forest reservation, not exceeding two acres for each schoolhouse and one acre for a church. (30 Stat. 36.)

See notes to the first paragraph of this section, ante, § 5123.

§ 5131. (Act June 4, 1897, c. 2, § 1.) (10) Civil and criminal jurisdiction.

The jurisdiction, both civil and criminal, over persons within such reservations shall not be affected or changed by reason of the existence of such reservations, except so far as the punishment of offenses against the United States therein is concerned; the intent and meaning of this provision being that the State wherein any such reservation is situated shall not, by reason of the establishment thereof, lose its jurisdiction, nor the inhabitants thereof their rights and privileges as citizens, or be absolved from their duties as citizens of the State. (30 Stat. 36.)

See notes to the first paragraph of this section, ante, § 5123.

§ 5132. (Act June 4, 1897, c. 2, § 1.) (11) Use of waters.

All waters on such reservations may be used for domestic, mining, milling, or irrigation purposes, under the laws of the State wherein such forest reservations are situated, or under the laws of the United States and the rules and regulations established thereunder. (30 Stat. 36.)

See notes to the first paragraph of this section; ante, § 5123.

§ 5133. (Act June 4, 1897, c. 2, § 1.) (12) Mineral lands; restoration to public domain; location and entry.

Upon the recommendation of the Secretary of the Interior, with the approval of the President, after sixty days' notice thereof, published in two papers of general circulation in the State or Territory wherein any forest reservation is situated, and near the said reservation, any public lands embraced within the limits of any forest reservation which, after due examination by personal inspection of a competent person appointed for that purpose by the Secretary of the Interior, shall be found better adapted for mining or for agricultural purposes than for forest usage, may be restored to the public domain. And any mineral lands in any forest reservation which have been or which may be
§ 5133 THE NATIONAL FORESTS

shown to be such, and subject to entry under the existing mining laws of the United States and the rules and regulations applying thereto, shall continue to be subject to such location and entry, notwithstanding any provisions herein contained. (30 Stat. 36.)

See notes to the first paragraph of this section, ante, § 5123.

See, also, note to the fourth paragraph, ante, § 5126, as to the transfer of authority over the national forests from the Secretary of the Interior to the Secretary of Agriculture.

The Pikes Peak National Forest, the Plum Creek National Forest and the South Platte National Forest, in the State of Colorado, were opened to the location of mining claims thereon for gold, silver and cinna-
mately equal value from any unappropriated public lands in the State, by Act
An exchange of lands within the Paulina, Oregon, National Forest for pri-
vently owned lands lying within the exterior limits of that forest was author-
The exchange of a certain placer mineral survey in Lawrence County, South
Dakota, for certain other lands to become part of the Harney National For-
est was authorized by Act July 15, 1912, c. 234, 37 Stat. 192.
The military reservation of Fort Wingate, New Mexico, was made a part
of the Zuni National Forest by Act Aug. 10, 1912, c. 284, 37 Stat. 286, and
the Secretary of Agriculture was authorized to exchange timber within the
Pecos National Forest, in New Mexico, for certain privately owned timber-lands
within the exterior limits of the Zuni National Forest, by Act Aug. 22, 1912,
c. 327, 37 Stat. 329.
An appropriation to enable the Secretary of Agriculture to effect an exchange
of lands and indemnity rights with the State of Montana was contained in the
agricultural appropriation act for the fiscal year 1914, Act March 4, 1913, c.
145, 37 Stat. 564.
§ 5136. (Act March 3, 1899, c. 424, § 1.) Establishment of exte-
rior boundaries of forest reserves.
Hereafter all standard, meander, township, and section lines of
the public land surveys shall, as heretofore, be established under
the direction and supervision of the Commissioner of the General
Land Office, whether the lands to be surveyed are within or with-
out reservations, except that where the exterior boundaries of public
forest reservations are required to be coincident with standard, town-
ship, or section lines such boundaries may, if not previously established
in the ordinary course of the public land surveys, be established and
marked under the supervision of the Director of the United States
Geological Survey whenever necessary to complete the survey of such
exterior boundaries. (30 Stat. 1097.)
This was a provision of the sundry civil appropriation act for the fiscal
year 1900, cited above.
The surveys of the forest reserves were to be made under the supervision
of the Director of the Geological Survey, by Act June 4, 1897, c. 2, § 1 (2),
ante, § 5124.
§ 5137. (Act Aug. 10, 1912, c. 284.) Sale of mature, dead, and
down timber to settlers for domestic use.
The Secretary of Agriculture, under such rules and regulations
as he shall establish, is hereby authorized and directed to sell at
actual cost, to homestead settlers and farmers, for their domestic
use, the mature, dead, and down timber in national forests, but it
is not the intent of this provision to restrict the authority of the
Secretary of Agriculture to permit the free use of timber as pro-
vided in the Act of June fourth, eighteen hundred and ninety-
seven. (37 Stat. 287.)
This was a provision of the agricultural appropriation act for the fiscal year
1913, cited above.
The provisions for use of timber by settlers, of Act June 4, 1897, c. 2, § 1
(6), are set forth ante, § 5128.
The Secretary of Agriculture was authorized, from the nurseries on the
Nebraska National Forest, to furnish young trees free, so far as they may be
served, to residents of the territory covered by the Kinkaid Act of April 28,
1904, c. 1801, ante, §§ 4576-4578, by a provision of Act March 4, 1913, c. 145,
37 Stat. 840.
(2153)
§ 5138. (Act March 4, 1913, c. 145.) Export of timber and other forest products.

The Secretary of Agriculture may, in his discretion, permit timber and other forest products cut or removed from the national forests to be exported from the State, Territory, or the District of Alaska in which said forests are respectively situated. (37 Stat. 839.)

This was a provision of the agricultural appropriation act for the fiscal year 1914, cited above.

§ 5139. (Act Feb. 18, 1909, c. 143, as amended, Act May 7, 1912, c. 105.) Calaveras Bigtree National Forest; purposes for which to be held and administered; acquisition of title to lands; reimbursement of owners.

The Secretary of Agriculture, to secure and protect for all time the big trees scientifically known as Sequoia washingtoniana, is hereby empowered, in his discretion, to obtain for the United States the complete title to any or all of the following-described lands in the State of California: In township four north, range fifteen east, Mount Diablo meridian, the northeast quarter of section one; in township four north, range sixteen east, Mount Diablo meridian, the north half of section six; in township five north, range fifteen east, Mount Diablo meridian, the southwest quarter of section fourteen, south half of section fifteen, north half of section twenty-two, northwest quarter of section twenty-three, and southeast quarter of section thirty-six, and in township five north, range sixteen east, Mount Diablo meridian, the west half of section twenty-eight, the east half and southwest quarter of section twenty-nine, the southeast quarter of section thirty, all of sections thirty-one, thirty-two, and the northwest quarter of section thirty-three. And such area or areas, as fast as complete title is acquired, shall be permanently held by the United States and shall be known as the Calaveras Bigtree National Forest and shall be administered, and protected, by the Secretary of Agriculture from the funds appropriated for the administration of National Forest land to prolong the existence, growth, and promote the reproduction of said big trees: Provided, That the owners of land acquired hereunder shall convey to the United States full title to any of the above-described areas approved for said national forest by the Secretary of Agriculture, the completeness of such title to be determined by the Secretary of the Interior in each case, and shall be reimbursed therefor only in one or both of the following ways: (1) They may be given the right to file with the Secretary of the Interior, within sixty days after such conveyance, selections of surveyed, unappropriated, nonmineral public lands or of nonmineral national forest lands, and if the lands so selected shall be found subject to selection and of the actual value in lands and stumpage substantially equal to that of the lands and stumpage conveyed they may be patented to said owners in lieu of the conveyed lands: Provided, however, That in any case where any part of the lands selected is national forest land, the approval of the Secretary of Agriculture shall first be secured with respect to such
part, or (2) the Secretary of Agriculture may grant to any such
conveying owner the right to cut from national forest land an
amount of timber and wood, substantially equal to the amount of
timber and wood on the land acquired by the United States under
the provisions of this Act: Provided, That nothing contained in
this Act shall warrant an appropriation from the Treasury to carry
out the terms of this Act. (35 Stat. 626. 37 Stat. 108.)

This was an act entitled "An act to create the Calaveras Bigtree National
Forest, and for other purposes."

It was amended by changing the provisions of the original act as to the
modes of reimbursement of owners of lands taken, to read as set forth here,
by Act May 7, 1912, c. 105, last cited above.

§ 5140. (Act Feb. 28, 1899, c. 221, § 1.) Leases of lands in for-
est for sanitariums or hotels.

That the Secretary of the Interior be, and hereby is, authorized,
under such rules and regulations as he from time to time may
make, to rent or lease to responsible persons or corporations ap-
plying therefor suitable spaces and portions of ground near, or
adjacent to, mineral, medicinal, or other springs, within any forest
reserves established within the United States, or hereafter to be
established, and where the public is accustomed or desires to frequent,
for health or pleasure, for the purpose of erecting upon such leased
ground sanitariums or hotels, to be opened for the reception of the
public. And he is further authorized to make such regulations, for
the convenience of people visiting such springs, with reference to
 spaces and locations, for the erection of tents or temporary dwelling
houses to be erected or constructed for the use of those visiting such
springs for health or pleasure. And the Secretary of the Interior is
authorized to prescribe the terms and duration and the compensation
to be paid for the privileges granted under the provisions of this Act.
(30 Stat. 908.)

This section and the section next following were an act entitled "An act
to authorize the Secretary of the Interior to rent or lease certain portions of
forest reserve."

The Secretary of Agriculture is to execute or cause to be executed all laws
affecting national forests, except such laws as affect the surveying, etc., enter-
ing, etc., or patenting of any of such lands, by Act Feb. 1, 1905, c. 288, §
1, ante, § 823. The supervision of the national forests was thereby trans-
ferred from the Secretary of the Interior to the Secretary of Agriculture.

§ 5141. (Act Feb. 28, 1899, c. 221, § 2.) Disposition of funds from
leases.

All funds arising from the privileges granted hereunder shall be
covered into the Treasury of the United States as a special fund, to
be expended in the care of public forest reservations. (30 Stat.
908.)

§ 5142. (Act Feb. 1, 1905, c. 288, § 5.) Disposition of money re-
ceived from sale of products or use of land, etc.

All money received from the sale of any products or the use of
any land or resources of said forest reserves shall be covered into
the Treasury of the United States and for a period of five years
(2155).
§ 5142  THE NATIONAL FORESTS  (Tit. 32A)

from the passage of this Act shall constitute a special fund available, until expended, as the Secretary of Agriculture may direct, for the protection, administration, improvement, and extension of Federal forest reserves. (33 Stat. 628.)

This section was part of the act for the transfer of national forests from the Department of the Interior to the Department of Agriculture, cited above. The special fund provided for by this section for a period of five years was continued, until otherwise provided, and the expenditure thereof was regulated, by provisions of Act June 30, 1906, c. 3913, 34 Stat. 694. But all these provisions were superseded by the different provisions for the disposal of moneys received after July 1, 1907, by or on account of the forest service for timber, or from any other source of forest reservation revenue, contained in Act March 4, 1907, c. 2907, post, § 5146.

§ 5143. (Act June 30, 1906, c. 3913.) Special fund from money received from sale of products, etc., continued; estimates of expenditures to be submitted in annual Book of Estimates.

The forest-reserve special fund provided for in section five of the Act approved February first, nineteen hundred and five, entitled "An Act providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture," shall continue until otherwise provided by law; but after June thirtieth, nineteen hundred and eight, it shall not be expended except in accordance with specific estimates of expenditures to be made from said fund for the succeeding fiscal year, to be submitted by the Secretary of Agriculture with the estimates of appropriation in the annual Book of Estimates. (34 Stat. 684.)

These were provisions of the agricultural appropriation act for the fiscal year 1907, cited above. Act Feb. 1, 1905, c. 288, § 5, mentioned in this paragraph, which provided for the special fund referred to therein for a period of five years, is set forth ante, § 5142.

Other provisions for the disposition of all money received after July 1, 1907, by or on account of the forest service for timber, or from any other source of forest reservation revenue, contained in Act March 4, 1907, c. 2907, are post, § 5146.

§ 5144. (Act June 30, 1906, c. 3913.) Sales of timber on forest reserves in California to conform to law governing such sales in other States.

Hereafter sales of timber on forest reserves in the State of California shall in every respect conform to the law governing such sales in other States, as set forth in the Act of June sixth, nineteen hundred (Thirty-First Statutes at Large, page six hundred and sixty-one). (34 Stat. 684.)

This was a further provision of the agricultural appropriation act for the fiscal year 1907, cited above. Act June 6, 1900, c. 804, 31 Stat. 661, mentioned in this provision, expressly amended Act June 4, 1897, c. 2, § 1, and the amendment made thereby is incorporated into the provision of said Act June 4, 1897, amended, which is set forth as amended ante, § 5127. See note to said provision. By a proviso annexed to said amendment, the provisions of the act were not to apply to forest reservations in the State of California. (2156)
§ 5145. (Act June 30, 1906, c. 3913.) Disposal of contributions toward co-operative work in forest investigations.

Hereafter all moneys received as contributions toward co-operative work in forest investigations shall be covered into the Treasury and shall constitute a special fund, which is hereby appropriated and made available until expended, as the Secretary of Agriculture may direct, for the payment of the expenses of said investigations by the Forest Service and for refunds to the contributors of amounts heretofore or hereafter paid in by them in excess of their share of the cost of said investigations. (34 Stat. 684.)

This was a further provision of the agricultural appropriation act for the fiscal year 1907, cited above.

A provision immediately preceding this in the same act, relating to the disposal of moneys received as deposits to secure the purchase price on the sale of any products or the use of any land or resources of the forest reserves, was superseded by different provisions for the disposal of all money received on account of the forest service for timber, or from any other source of forest reservation revenue, contained in Act March 4, 1907, c. 2907, post, § 5146.

§ 5146. (Act March 4, 1907, c. 2907.) Disposal of money received by or on account of Forest Service; refund to depositors of excess deposited.

All money received after July first, nineteen hundred and seven, by or on account of the forest service for timber, or from any other source of forest reservation revenue, shall be covered into the Treasury of the United States as a miscellaneous receipt and there is hereby appropriated and made available as the Secretary of Agriculture may direct out of any funds in the Treasury not otherwise appropriated, so much as may be necessary to make refunds to depositors of money heretofore or hereafter deposited by them to secure the purchase price on the sale of any products or for the use of any land or resources of the national forests in excess of amounts found actually due from them to the United States: * * (34 Stat. 1270.)

This was a proviso annexed to the appropriation for the administration, etc., of the national forests, in the agricultural appropriation act for the fiscal year 1908, cited above.

Previous provisions relating to the disposal of money received from the sale of any products or the use of any land or resources of the forest reserves, contained in Act Feb. 1, 1906, c. 281, § 5, ante, § 5142, and Act June 30, 1906, c. 3813, 34 Stat. 684, were superseded by this provision.

The provision for refunds of moneys deposited was amended, to include refunds of sums erroneously collected for use, etc., of lands located within, but not a part of, the national forests, or for illegal acts done upon such lands, etc., by a provision of Act March 4, 1911, c. 238, post, § 5147.

§ 5147. (Act March 4, 1911, c. 238.) Amendment of Act March 4, 1907, c. 2907; refund of moneys erroneously collected for use, etc., of lands within but not part of national forests; report of amounts.

That so much of an Act entitled "An Act making appropriations for the Department of Agriculture for the fiscal year ending June thirtieth, nineteen hundred and eight," approved March fourth, nineteen hundred and seven (Thirty-fourth Statutes at
§ 5147. TH E N A T I O N A L F O R E S T S  

Large, pages twelve hundred and fifty-six and twelve hundred and seventy), which provides for refunds by the Secretary of Agriculture to depositors of moneys to secure the purchase price of timber or the use of lands or resources of the national forests such sums as may be found to be in excess of the amounts found actually due the United States, be, and is hereby, amended hereafter to appropriate and to include so much as may be necessary to refund or pay over to the rightful claimants such sums as may be found by the Secretary of Agriculture to have been erroneously collected for the use of any lands, or for timber or other resources sold from lands located within, but not a part of, the national forests, or for alleged illegal acts done upon such lands, which acts are subsequently found to have been proper and legal; and the Secretary of Agriculture shall make annual report to Congress of the amounts refunded hereunder. (36 Stat. 1253.)

This was a proviso annexoed to the appropriations for general expenses, Forest Service, in the agricultural appropriation act for the fiscal year 1912, cited above.

The provision of Act March 4, 1907, c. 2907, mentioned in and amended by this provision, is ante, § 5146.

§ 5148. (Act March 4, 1913, c. 145.) Reimbursement to owners of horses, etc., damaged or destroyed while fire-fighting, trail building, etc.

Hereafter the Secretary of Agriculture is authorized to reimburse owners of horses, vehicles, and other equipment lost, damaged, or destroyed while being used for necessary fire fighting, trail, or official business, such reimbursement to be made from any available funds in the appropriation to which the hire of such equipment is properly chargeable. (37 Stat. 843.)

This was a provision of the agricultural appropriation act for the fiscal year 1914, cited above.

§ 5149. (Act May 23, 1908, c. 192.) Payment of part of money received from each forest reserve to State or Territory for public schools and public roads.

Hereafter twenty-five per centum of all money received from each forest reserve during any fiscal year, including the year ending June thirtieth, nineteen hundred and eight, shall be paid at the end thereof by the Secretary of the Treasury to the State or Territory in which said reserve is situated, to be expended as the State or Territorial legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which the forest reserve is situated: Provided, That when any forest reserve is in more than one State or Territory or county the distributive share to each from the proceeds of said reserve shall be proportional to its area therein. (35 Stat. 260.)

This was a provision of the agricultural appropriation act for the fiscal year 1909, cited above.

Previous provisions for payment for the same purposes of ten per cent. of the money received from each forest reserve, with an additional limitation of the amount to be paid to any county, contained in Act June 30, 1906, c. (2158)
THE NATIONAL FORESTS § 5152

3913, 34 Stat. 654, and Act March 4, 1907, c. 2907, 34 Stat. 1270, were superseded by this provision.

Provisions for the use of an additional ten per cent. of the moneys received from national forests for the construction and maintenance of roads and trails therein were made by Act March 4, 1913, c. 145, post, § 5150.

§ 5150. (Act March 4, 1913, c. 145.) Additional expenditures from receipts for construction and maintenance of roads and trails; co-operation with State authorities.

Hereafter an additional ten per centum of all moneys received from the national forests during each fiscal year shall be available at the end thereof, to be expended by the Secretary of Agriculture for the construction and maintenance of roads and trails within the national forests in the States from which such proceeds are derived; but the Secretary of Agriculture may, whenever practicable, in the construction and maintenance of such roads, secure the cooperation or aid of the proper State or Territorial authorities in the furtherance of any system of highways of which such roads may be made a part. (37 Stat. 843.)

This was a provision of the agricultural appropriation act for the fiscal year 1914, cited above.

§ 5151. (Act March 4, 1913, c. 145.) Free use of timber for telephone lines needed for fire protection.

Hereafter the Secretary of Agriculture, whenever he may deem it necessary for the protection of the national forests from fire, may permit the use of timber free of charge for the construction of telephone lines. (37 Stat. 843.)

This was a provision of the agricultural appropriation act for the fiscal year, 1914, cited above.

§ 5152. (Act Feb. 1, 1905, c. 288, § 3.) Forest supervisors and rangers; selection.

Forest supervisors and rangers shall be selected, when practicable, from qualified citizens of the States or Territories in which the said reserves, respectively, are situated. (33 Stat. 628.)

This section was part of an act entitled "An act providing for the transfer of forest reserves from the Department of the Interior to the Department of Agriculture," cited above.

Section 1 of that act provided that thereafter the Secretary of Agriculture should execute all laws affecting public lands reserved under Act March 3, 1891, c. 561, § 24, ante, § 5121, and acts supplemental to and amendatory thereof, except such laws as affected the surveying, etc., entering, etc., or patenting of such lands, and is set forth ante, § 823.

Section 2 permitted pulp wood or wood pulp manufactured from timber in Alaska to be exported therefrom. It is set forth ante, § 5093.

Section 4 granted rights of way within and across national forests for the construction and maintenance of dams, reservoirs, water plants, ditches, etc., for municipal or mining purposes, and for the purposes of milling and reduction of ores. It is set forth ante, § 4947.

Previous provisions relating to the selection of forestry agents, superintendents, and supervisors, etc., under the Secretary of the Interior, were made by the sundry civil appropriation acts for each year, repeated in substantially the same language. But the execution of the laws affecting forest reserves having been placed, with certain exceptions, under the Secretary of Agriculture, by section 1 of this act, as stated above, the similar appropriations for subse-

(2159)
§ 5153. (Act March 3, 1905, c. 1405.) Arrests for violations of laws and regulations relating to forest reserves and national parks, and proceedings thereon.

All persons employed in the forest reserve and national park service of the United States shall have authority to make arrests for the violation of the laws and regulations relating to the forest reserves and national parks, and any person so arrested shall be taken before the nearest United States commissioner, within whose jurisdiction the reservation or national park is located, for trial; and upon sworn information by any competent person any United States commissioner in the proper jurisdiction shall issue process for the arrest of any person charged with the violation of said laws and regulations; but nothing herein contained shall be construed as preventing the arrest by any officer of the United States, without process, of any person taken in the act of violating said laws and regulations. (33 Stat. 872.)

These were provisions of the agricultural appropriation act for the fiscal year 1906, cited above.

These provisions repeated, in the language, those of Act Feb. 6, 1906, c. 458, 33 Stat. 700, which was entitled "An act for the protection of the public forest reserves and national parks of the United States."

§ 5154. (Act May 23, 1908, c. 192.) Officials of Forest Service to aid in enforcement of local laws for certain purposes, and to aid other federal bureaus and departments in the performance of their duties.

Hereafter officials of the Forest Service designated by the Secretary of Agriculture shall, in all ways that are practicable, aid in the enforcement of the laws of the States or Territories with regard to stock, for the prevention and extinguishment of forest fires, and for the protection of fish and game, and with respect to National Forests, shall aid the other Federal Bureaus and Departments on request from them, in the performance of the duties imposed on them by law. (35 Stat. 259.)

This was a provision accompanying an appropriation for expenses to protect, etc., the national forests, in the agricultural appropriation act for the fiscal year 1909, cited above.

Previous similar provisions for aiding the enforcement of laws of the States or Territories, contained in similar appropriation acts, including a permanent provision for that purpose of Act March 4, 1907, c. 2007, 34 Stat. 1269, were superseded by this provision.

§ 5155. (Act March 4, 1913, c. 145.) Leaves of absence to employees of the Forest Service in Alaska.

Hereafter the employees of the Forest Service who are assigned to permanent duty in Alaska may, in the discretion of the Secretary of Agriculture, without additional expense to the Government, be granted leave of absence not to exceed thirty days in any one year, which leave may, in exceptional and meritorious cases where such an employee is ill, be extended, in the discretion of the Secretary of Agri-
culture, not to exceed thirty days additional in any one year. (37 Stat. 843.)

This was a provision of the agricultural appropriation act for the fiscal year 1914, cited above.

§ 5156. (Act Jan. 24, 1905, c. 137, § 1.) Areas in Wichita Forest Reserve to be set aside for protection as breeding place for game animals and birds.

The President of the United States is hereby authorized to designate such areas in the Wichita Forest Reserve as should, in his opinion, be set aside for the protection of game animals and birds and be recognized as a breeding place therefor. (33 Stat. 614.)

This section and the two sections next following were an act entitled "An act for the protection of wild animals and birds in the Wichita Forest Reserve."

Provisions similar to those of this act, relating to the Grand Canyon Forest Reserve, were made by Act June 29, 1906, c. 3593, post, §§ 5155—5161.

§ 5157. (Act Jan. 24, 1905, c. 137, § 2.) Hunting, trapping, killing, or capturing game animals or birds, within areas set aside, unlawful; penalty.

When such areas have been designated as provided for in section one of this Act, hunting, trapping, killing, or capturing of game animals and birds upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time, by the Secretary of Agriculture; and any person violating such regulations or the provisions of this Act shall be deemed guilty of a misdemeanor, and shall, upon conviction in any United States court of competent jurisdiction, be fined in a sum not exceeding one thousand dollars or be imprisoned for a period not exceeding one year, or shall suffer both fine and imprisonment, in the discretion of the court. (33 Stat. 614.)

§ 5158. (Act Jan. 24, 1905, c. 137, § 3.) Operation of local game laws as to private, State, or Territorial lands, not affected by this act.

It is the purpose of this Act to protect from trespass the public lands of the United States and the game animals and birds which may be thereon, and not to interfere with the operation of the local game laws as affecting private, State or Territorial lands. (33 Stat. 614.)

§ 5159. (Act June 29, 1906, c. 3593, § 1.) Areas in Grand Canyon Forest Reserve to be set aside for protection of game animals as breeding place therefor.

The President of the United States is hereby authorized to designate such areas in the Grand Canyon Forest Reserve as should, in his opinion, be set aside for the protection of game animals and be recognized as a breeding place therefor. (34 Stat. 607.)

This section and the two sections next following were an act entitled "An act for the protection of wild animals in the Grand Canyon Forest Reserve."

Provisions similar to those of this act, relating to the Wichita Forest Reserve, were made by Act Jan. 24, 1905, c. 137, ante, §§ 5156—5158.
§ 5160. (Act June 29, 1906, c. 3593, § 2.) Hunting, trapping, killing, or capturing game animals, within areas set aside, unlawful; penalty.

When such areas have been designated as provided in section one of this Act, hunting, trapping, killing, or capturing of game animals upon the lands of the United States within the limits of said areas shall be unlawful, except under such regulations as may be prescribed from time to time by the Secretary of Agriculture; and any person violating such regulations or the provisions of this Act shall be deemed guilty of a misdemeanor, and shall, upon conviction in any United States court of competent jurisdiction, be fined in a sum not exceeding one thousand dollars, or by imprisonment for a period not exceeding one year, or shall suffer both fine and imprisonment, in the discretion of the court. (34 Stat. 607.)

§ 5161. (Act June 29, 1906, c. 3593, § 3.) Operation of local game laws as to private, State, or Territorial lands, not affected by this act.

It is the purpose of this Act to protect from trespass the public lands of the United States and the game animals which may be thereon, and not to interfere with the operation of the local game laws as affecting private, State, or Territorial lands. (34 Stat. 607.)

§ 5162. (Act June 11, 1906, c. 3074, § 1.) Agricultural lands within forest reserves to be opened to homestead entry; preference rights of former settlers and of applicants; plats and field notes to be filed and posted; surveys; commutation provisions not to apply; credit for actual residence.

The Secretary of Agriculture may, in his discretion, and he is hereby authorized, upon application or otherwise, to examine and ascertain as to the location and extent of lands within permanent or temporary forest reserves, except the following counties in the State of California, Inyo, Tulare, Kern, San Luis Obispo, Santa Barbara, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego; which are chiefly valuable for agriculture, and which, in his opinion, may be occupied for agricultural purposes without injury to the forest reserves, and which are not needed for public purposes, and may list and describe the same by metes and bounds, or otherwise, and file the lists and descriptions with the Secretary of the Interior, with the request that the said lands be opened to entry in accordance with the provisions of the homestead laws and this Act.

Upon the filing of any such list or description the Secretary of the Interior shall declare the said lands open to homestead settlement and entry in tracts not exceeding one hundred and sixty acres in area and not exceeding one mile in length, at the expiration of sixty days from the filing of the list in the land office of the district within which the lands are located, during which period the said list or description shall be prominently posted in the land office and advertised for a period of not less than four weeks in one newspaper of general circulation published in the county in which the lands are situated: Provided, That any settler actually occupying and in good faith claiming such lands

(2162)
for agricultural purposes prior to January first, nineteen hundred and six, and who shall not have abandoned the same, and the person, if qualified to make a homestead entry, upon whose application the land proposed to be entered was examined and listed, shall, each in the order named, have a preference right of settlement and entry: Provided further, That any entryman desiring to obtain patent to any lands described by metes and bounds entered by him under the provisions of this Act shall, within five years of the date of making settlement, file, with the required proof of residence and cultivation, a plat and field notes of the lands entered, made by or under the direction of the United States surveyor-general, showing accurately the boundaries of such lands, which shall be distinctly marked by monuments on the ground, and by posting a copy of such plat, together with a notice of the time and place of offering proof, in a conspicuous place on the land embraced in such plat during the period prescribed by law for the publication of his notice of intention to offer proof, and that a copy of such plat and field notes shall also be kept posted in the office of the register of the land office for the land district in which such lands are situated for a like period; and further, that any agricultural lands within forest reserves may, at the discretion of the Secretary, be surveyed by metes and bounds, and that no lands entered under the provisions of this Act shall be patented under the commutation provisions of the homestead laws, but settlers, upon final proof, shall have credit for the period of their actual residence upon the lands covered by their entries. (34 Stat. 233.)

This was the first section of an act entitled "An act to provide for the entry of agricultural lands within forest reserves."

Other sections of the act are set forth post, §§ 5165-5167, 5170.

Special provisions similar to those of this section, relating to certain lands in the Yellowstone Forest Reserve, are contained in Act March 15, 1906, c. 950, 34 Stat. 62.

This section was amended by Act May 30, 1908, c. 233, post, § 5143, by striking out the words "except the following counties in the State of California: Inyo, Tulare, Kern, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego." The names of the counties of San Luis Obispo and Santa Barbara are not stricken out.

Allotments within national forests to Indians occupying, etc., land included therein, who were not entitled to allotments on any Indian reservation, etc., to be made of lands more valuable for agricultural or grazing purposes than for timber, were authorized by Act June 25, 1910, c. 431, § 31, ante, § 4200.

§ 5163. (Act May 30, 1908, c. 233.) Amendment of Act June 11, 1906, c. 3074, § 1; exception from provisions of certain counties in California stricken out.

An Act entitled "An Act to provide for the entry of agricultural lands within forest reserves," approved June eleventh, nineteen hundred and six, be amended by striking out of section one the following words: "except the following counties in the State of California: Inyo, Tulare, Kern, Ventura, Los Angeles, San Bernardino, Orange, Riverside, and San Diego." (35 Stat. 554.)

Act June 11, 1906, c. 3074, § 1, amended by this act, is set forth ante, § 5162. See note to said section.
§ 5164. (Act Aug. 10, 1912, c. 284.) Land not to pass from forest until patent issues.

No land listed under the Act of June eleventh, nineteen hundred and six, shall pass from the forest until patent issues. (37 Stat. 287.)

This was part of a proviso annexed to an appropriation for survey and listing of lands within forest reserves chiefly valuable for agricultural, as required by Act June 11, 1868, ante, § 5162 et seq.

§ 5165. (Act June 11, 1906, c. 3074, § 2.) Additional homestead right of entry to former settlers; payment of price of lands required.

Settlers upon lands chiefly valuable for agriculture within forest reserves on January first, nineteen hundred and six, who have already exercised or lost their homestead privilege, but are otherwise competent to enter lands under the homestead laws, are hereby granted an additional homestead right of entry for the purposes of this Act only, and such settlers must otherwise comply with the provisions of the homestead law, and in addition thereto must pay two dollars and fifty cents per acre for lands entered under the provisions of this section, such payment to be made at the time of making final proof on such lands. (34 Stat. 234.)

See notes to section 1 of this act, ante, § 5162.

§ 5166. (Act June 11, 1906, c. 3074, § 3.) Entries in Black Hills Forest Reserve subject to mining laws and to appropriation of waters; limitation of title acquired as to riparian rights.

All entries under this Act in the Black Hills Forest Reserve shall be subject to the quartz or lode mining laws of the United States, and the laws and regulations permitting the location, appropriation, and use of the waters within the said forest reserves for mining, irrigation, and other purposes; and no titles acquired to agricultural lands in said Black Hills Forest Reserve under this Act shall vest in the patentee any riparian rights to any stream or streams of flowing water within said reserve; and that such limitation of title shall be expressed in the patents for the lands covered by such entries. (34 Stat. 234.)

See notes to section 1 of this act, ante, § 5162.

§ 5167. (Act June 11, 1906, c. 3074, § 4.) Homestead settlements or entries not allowed in certain portion of Black Hills Forest Reserve, except to give title to former settlers.

No homestead settlements or entries shall be allowed in that portion of the Black Hills Forest Reserve in Lawrence and Pennington counties in South Dakota except to persons occupying lands therein prior to January first, nineteen hundred and six, and the provisions of this Act shall apply to the said counties in said reserve only so far as is necessary to give and perfect title of such settlers or occupants to lands chiefly valuable for agriculture therein occupied or claimed by them prior to the said date, and all homestead entries under this Act in said counties in said reserve shall be described by metes and bounds survey. (34 Stat. 234.)

See notes to section 1 of this act, ante, § 5162.

Certain described lands in Lawrence and Pennington counties, in South
Dakota, were excepted from the operation of the provisions of this section, by provisions of Act Feb. 8, 1907, c. 896, and Act July 3, 1912, c. 195, post, §§ 5168, 5169.

§ 5168. (Act Feb. 8, 1907, c. 896.) Certain townships excepted from provisions of section 4 of act providing for entry of agricultural lands.

The following described townships in the Black Hills Forest Reserve, in Pennington County, South Dakota, to wit: Townships one north, one east; two north, one east; one north; two east; two north, two east; one south, one east; two south, one east; one south, two east; and two south, two east, Black Hills meridian, are hereby excepted from the operation of the provisions of section four of an Act entitled "An Act to provide for the entry of agricultural lands within forest reserves," approved June eleventh, nineteen hundred and six. The lands within the said townships to remain subject to all other provisions of said Act. (34 Stat. 883.)

Act June 11, 1906, c. 3074, § 4, mentioned in this act, is set forth ante, § 5167.

Other lands in the same Forest were excepted from the provisions of said section, by Act July 3, 1912, c. 195, post, § 5169.

§ 5169. (Act July 3, 1912, c. 195.) Certain other townships excepted from provisions of section 4 of act providing for entry of agricultural lands.

The following-described townships in the Black Hills Forest Reserve, South Dakota, to wit: Township three north, one east, and so much of townships two north, one east, and two north, two east, as are within Lawrence County, and township one north, three east, in Pennington County, Black Hills meridian, are hereby excepted from the operation of the provisions of section four of an Act entitled "An Act to provide for the entry of agricultural lands within forest reserves," approved June eleventh, nineteen hundred and six. The lands within the said townships to remain subject to all other provisions of said Act. (37 Stat. 188.)

Act June 11, 1906, c. 3074, § 4, mentioned in this act, is set forth ante, § 5167.

Other lands in the same Forest were excepted from the provisions of said section, by Act Feb. 8, 1907, c. 896, ante, § 5168.

§ 5170. (Act June 11, 1906, c. 3074, § 5.) Act not to be construed to authorize future settlements on lands within forest reserves, or to impair rights of former bona fide settlers.

Nothing herein contained shall be held to authorize any future settlement on any lands within forest reserves until such lands have been opened to settlement as provided in this Act, or to in any way impair the legal rights of any bona fide homestead settler who has or shall establish residence upon public lands prior to their inclusion within a forest reserve. (34 Stat. 234.)

See notes to section 1 of this act, ante, § 5162.
§ 5171. (Act March 3, 1911, c. 225, § 1.) Reinstatement of entries canceled or relinquished because of erroneous allowance after withdrawal of land for national forest purposes.

All homestead entries which have been canceled or relinquished, or are invalid solely because of the erroneous allowance of such entries after the withdrawal of lands for national forest purposes, may be reinstated or allowed to remain intact, but in the case of entries heretofore canceled applications for reinstatement must be filed in the proper local land office prior to July first, nineteen hundred and twelve. (36 Stat. 1084.)

This section and the section next following were an act entitled "An act providing for the validation of certain homestead entries."

Act May 14, 1889, c. 86, mentioned in this section, is set forth ante, §§ 4536-4538.

§ 5172. (Act March 3, 1911, c. 225, § 2.) Contestants prior to withdrawal of land for national forest purposes authorized to exercise preference right to enter.

In all cases where contests were initiated under the provisions of the Act of May fourteenth, eighteen hundred and eighty, prior to the withdrawal of the land for national forest purposes, the qualified successful contestants may exercise their preference right to enter the land within six months after the passage of this Act. (36 Stat. 1084.)

§ 5173. (Act March 4, 1913, c. 145.) Segregation of lands for homestead entry; surveys, plats and field notes of agricultural lands to be made by employees of the Forest Service.

The Secretary of Agriculture is hereby directed and required to select, classify, and segregate, as soon as practicable, all lands within the boundaries of national forests that may be opened to settlement and entry under the homestead laws applicable to the national forests, and the sum of $100,000 is hereby appropriated for the purposes aforesaid: Provided, That not to exceed $35,000 of this sum may be expended under the direction of the Secretary of Agriculture for the examination, survey, and platting of certain lands now listed or to be listed within national forests chiefly valuable for agriculture and describing such lands by metes and bounds, as required by the act of June eleventh, nineteen hundred and six (Thirty-fourth Statute, page two hundred and thirty-three), and the act of March third, eighteen hundred and ninety-nine (Thirtieth Statute, page ten hundred and ninety-five), and hereafter such surveys, and the plats and field notes thereof, shall be made by employees of the Forest Service, to be designated by the United States surveyor general, and such surveys and the plats and field notes thereof shall be approved by the United States surveyor general. (37 Stat. 842.)

These were provisions of the agricultural appropriation act for the fiscal year 1914.

The unexpended balance of the appropriation for the examination, platting, and survey of agricultural lands for the fiscal year 1913, was made available (2166)
for the purpose of this appropriation by a subsequent provision of this act, omitted here.

Provisions somewhat similar to those of this section were made by previous agricultural appropriation acts.

§ 5174. (Act March 1, 1911, c. 186, § 1.) Consent to agreement by States for conservation of forests and water supply.

The consent of the Congress of the United States is hereby given to each of the several States of the Union to enter into any agreement or compact, not in conflict with any law of the United States, with any other State or States for the purpose of conserving the forests and the water supply of the States entering into such agreement or compact. (36 Stat. 961.)

This section and the thirteen sections next following constituted an act entitled "An act to enable any State to co-operate with any other State or States, or with the United States, for the protection, of the watersheds of navigable streams, and to appoint a commission for the acquisition of lands for the purpose of conserving the navigability of navigable rivers."

§ 5175. (Act March 1, 1911, c. 186, § 2.) Appropriation for co-operation with States for protection from fire of forested watersheds of navigable streams; agreements with States for system of fire protection; State law required; limitation of expenditure.

The sum of two hundred thousand dollars is hereby appropriated and made available until expended, out of any moneys in the National Treasury not otherwise appropriated, to enable the Secretary of Agriculture to cooperate with any State or group of States, when requested to do so, in the protection from fire of the forested watersheds of navigable streams; and the Secretary of Agriculture is hereby authorized, and on such conditions as he deems wise, to stipulate and agree with any State or group of States to cooperate in the organization and maintenance of a system of fire protection on any private or state forest lands within such State or States and situated upon the watershed of a navigable river provided, That no such stipulation or agreement shall be made with any State which has not provided by law for a system of forest-fire protection provided further, That in no case shall the amount expended in any State exceed in any fiscal year the amount appropriated by that State for the same purpose during the same fiscal year. (36 Stat. 961.)

The unused balance of the appropriation for co-operation with any State or group of States in the protection from fire of the forested watersheds of navigable streams, under the provisions of this act, to carry out the purposes mentioned in this section, was made available until the end of the fiscal year 1912 for the purposes for which it was appropriated, by a provision of Act March 4, 1912, c. 145, 37 Stat. 855.

§ 5176. (Act March 1, 1911, c. 186, § 3.) Appropriations for examination, survey, and acquisition of lands on headwaters of navigable streams.

There is hereby appropriated, for the fiscal year ending June thirtieth, nineteen hundred and ten, the sum of one million dollars, and for each fiscal year thereafter a sum not to exceed two

(2167)
§ 5177. (Act March 1, 1911, c. 186, § 4.) National Forest Reservation Commission; creation and composition; authority as to purchases of lands under act; service of members; vacancies.

A commission, to be known as the National Forest Reservation Commission, consisting of the Secretary of War, the Secretary of the Interior, the Secretary of Agriculture, and two members of the Senate, to be selected by the President of the Senate and two members of the House of Representatives, to be selected by the Speaker, is hereby created and authorized to consider and pass upon such lands as may be recommended for purchase as provided in section six of this Act, and to fix the price or prices at which such lands may be purchased, and no purchases shall be made of any lands until such lands have been duly approved for purchase by said commission. Provided, That the members of the commission herein created shall serve as such only during their incumbency in their respective official positions, and any vacancy on the commission shall be filled in the manner as the original appointment. (36 Stat. 962.)

Section 6 of this act, mentioned in this section, is set forth post, § 5179.

§ 5178. (Act March 1, 1911, c. 186, § 5.) Annual reports of Commission.

The commission hereby appointed shall, through its president, annually report to Congress, not later than the first Monday in December, the operations and expenditures of the commission, in detail, during the preceding fiscal year. (36 Stat. 962.)

§ 5179. (Act March 1, 1911, c. 186, § 6.) Examination, etc., of lands for purchase and report by Secretary of Agriculture; examination and report by Geological Survey.

The Secretary of Agriculture is hereby authorized and directed to examine, locate, and recommend for purchase such lands as in his judgment may be necessary to the regulation of the flow of navigable streams, and to report to the National Forest Reservation Commission the results of such examinations: Provided, That before any lands are purchased by the National Forest Reservation Commission said lands shall be examined by the Geological Survey and a report made to the Secretary of Agriculture, showing that the control of such lands will promote or protect the navigation of streams on whose watersheds they lie. (36 Stat. 962.)

§ 5180. (Act March 1, 1911, c. 186, § 7.) Purchase of lands approved by Commission; consent of State.

The Secretary of Agriculture is hereby authorized to purchase, in the name of the United States, such lands as have been ap-
proved for purchase by the National Forest Reservation Commission at the price or prices fixed by said commission: Provided, That no deed or other instrument of conveyance shall be accepted or approved by the Secretary of Agriculture under this Act until the legislature of the State in which the land lies shall have consented to the acquisition of such land by the United States for the purpose of preserving the navigability of navigable streams. (36 Stat. 962.)

§ 5181. (Act March 1, 1911, c. 186, § 8.) Title to lands to be acquired.

The Secretary of Agriculture may do all things necessary to secure the safe title in the United States to the lands to be acquired under this Act, but no payment shall be made for any such lands until the title shall be satisfactory to the Attorney-General and shall be vested in the United States. (36 Stat. 962.)

§ 5182. (Act March 1, 1911, c. 186, § 9, as amended, Act March 4, 1913, c. 145.) Acquisition of lands not defeated by rights of way, easements and reservations which will not interfere with purposes of this act; rights of way, etc., to be subject to rules and regulations.

Such acquisition by the United States shall in no case be defeated because of located or defined rights of way, easements, and reservations, which, from their nature will, in the opinion of the National Forest Reservation Commission and the Secretary of Agriculture, in no manner interfere with the use of the lands so encumbered, for the purposes of the Act: Provided, That such rights of way, easements, and reservations retained by the owner from whom the United States receives title, shall be subject to the rules and regulations prescribed by the Secretary of Agriculture for their occupation, use, operation, protection, and administration, and that such rules and regulations shall be expressed in and made part of the written instrument conveying title to the lands to the United States; and the use, occupation, and operation of such rights of way, easements, and reservations shall be under, subject to, and in obedience with the rules and regulations so expressed. (36 Stat. 962. 37 Stat. 855.)

This section, as originally enacted, was as follows:

"Such acquisition may in any case be conditioned upon the exception and reservation to the owner from whom title passes to the United States of the minerals and of the merchantable timber, or either or any part of them, within or upon such lands at the date of the conveyance, but in every case such exception and reservation and the time within which such timber shall be removed and the rules and regulations under which the cutting and removal of such timber and the mining and removal of such minerals shall be done shall be expressed in the written instrument of conveyance, and thereafter the mining, cutting and removal of the minerals and timber so excepted and reserved shall be done only under and in obedience to the rules and regulations so expressed."

It was amended to read as set forth here by Act March 4, 1913, c. 145, last cited above.
§ 5183. (Act March 1, 1911, c. 186, § 10.) Agricultural lands included in tracts acquired; sale as homesteads; jurisdiction of lands sold to revert to state; no rights, etc., to lands acquired, waters thereon, etc., except as provided in this section.

Inasmuch as small areas of land chiefly valuable for agriculture may of necessity or by inadvertence be included in tracts acquired under this Act, the Secretary of Agriculture may, in his discretion, and he is hereby authorized, upon application or otherwise, to examine and ascertain the location and extent of such areas as in his opinion may be occupied for agricultural purposes without injury to the forests or to stream flow and which are not needed for public purposes, and may list and describe the same by metes and bounds, or otherwise, and offer them for sale as homesteads at their true value, to be fixed by him, to actual settlers, in tracts not exceeding eighty acres in area, under such joint rules and regulations as the Secretary of Agriculture and the Secretary of the Interior may prescribe; and in case of such sale the jurisdiction over the lands sold shall, ipso facto, revert to the State in which the lands sold lie. And no right, title, interest, or claim in or to any lands acquired under this Act, or the waters thereon, or the products, resources, or use thereof after such lands shall have been so acquired, shall be initiated or perfected, except as in this section provided. (36 Stat. 962.)

§ 5184. (Act March 1, 1911, c. 186, § 11.) Lands acquired to be reserved, etc., as national forest lands; division into and designation, as specific national forests.

Subject to the provisions of the last preceding section, the lands acquired under this Act shall be permanently reserved, held, and administered as national forest lands under the provisions of section twenty-four of the Act approved March third, eighteen hundred and ninety-one (volume twenty-six, Statutes at Large, page eleven hundred and three), and Acts supplemental to and amendatory thereof. And the Secretary of Agriculture may from time to time divide the lands acquired under this Act into such specific national forests and so designate the same as he may deem best for administrative purposes. (36 Stat. 963.)

Act March 3, 1891, c. 561, § 24, and acts supplemental thereto and amendatory thereof, mentioned in this section, are set forth ante, §§ 5121-5173.

§ 5185. (Act March 1, 1911, c. 186, § 12.) State jurisdiction over persons on lands acquired not affected, except as to punishment of offenses against United States.

The jurisdiction, both civil and criminal, over persons upon the lands acquired under this Act shall not be affected or changed by their permanent reservation and administration as national forest lands, except so far as the punishment of offenses against the United States is concerned, the intent and meaning of this section being that the State wherein such land is situated shall not, by reason of such reservation and administration, lose its jurisdiction nor the inhabitants thereof their rights and privileges as citizens or be absolved from their duties as citizens of the State. (36 Stat. 963.)

(2170)
§ 5186. (Act March 1, 1911, c. 186, § 13.) Payment of 5 per cent. of receipts from each national forest to State for benefit of county public schools and roads; limitation of payment for any one county.

Five per centum of all moneys received during any fiscal year from each national forest into which the lands acquired under this Act may from time to time be divided shall be paid, at the end of such year, by the Secretary of the Treasury to the State in which such national forest is situated, to be expended as the state legislature may prescribe for the benefit of the public schools and public roads of the county or counties in which such national forest is situated: Provided, That when any national forest is in more than one State or county the distributive share to each from the proceeds of such forest shall be proportional to its area therein: Provided further, That there shall not be paid to any State for any county an amount equal to more than forty per centum of the total income of such county from all other sources. (36 Stat. 963.)

§ 5187. (Act March 1, 1911, c. 186, § 14.) Appropriation for expenses of Commission; payments.

A sum sufficient to pay the necessary expenses of the commission and its members, not to exceed an annual expenditure of twenty-five thousand dollars, is hereby appropriated out of any money in the Treasury not otherwise appropriated. Said appropriation shall be immediately available, and shall be paid out on the audit and order of the president of the said commission, which audit and order shall be conclusive and binding upon all departments as to the correctness of the accounts of said commission. (36 Stat. 963.)
TITLE XXXII B

THE NATIONAL PARKS, RESERVATIONS, AND MONUMENTS

This title, inserted here as additional to the original titles of the Revised Statutes, includes the laws for the establishment, management, and control of the various national parks, other than the national military parks, reservations for general public use, and national monuments.

Provisions relating to the National Military Parks are collected under Title XXXII C, "The National Military Parks."

Sec. 5188. Public park established near the head-waters of the Yellowstone River.

5189. Secretary of the Interior to have exclusive control of the park; removal of trespassers.

5190. Details of troops for protection of Yellowstone Park.

5191. Jurisdiction of United States over Yellowstone Park; service of state process; fugitives from justice.

5192. Criminal laws of Wyoming applicable to Yellowstone Park.

5193. Hunting and fishing prohibited in Yellowstone Park; penalties; regulations.

5194. Commissioner for Yellowstone Park; jurisdiction; powers and duties.

5195. Deputy Marshals for Yellowstone Park, terms of district and circuit courts.

5196. Compensation of commissioner, marshals, and United States attorneys for Yellowstone Park.

5197. Salary of commissioner for Yellowstone Park.

5198. Costs and expenses in cases under act, how paid.

5199. Jail, and office for commissioner in Yellowstone Park.

5200. Existing laws not repealed by act.

5201. Road extensions.

5202. Leases of lands in Yellowstone Park for hotels, etc.

5203. Leases of lands in Yellowstone Park for hotels, etc.

5204. Leases of lands in Yellowstone National Park for hotels, etc., mortgages by lessees, subject to leases and contracts; provisions of existing law continued in force.

5205. Amendment of Act June 4, 1906, c. 2570; leases of lands in Yellowstone National Park; period.

5206. Use of electricity from lighting and power plant in Yellowstone Park by private parties.

5207. Public park in California; Sequoia National Park.

5208. Rules and regulations for park; leases of ground; preservation of fish and game; removal of trespassers.

5209. Forest reserve in California; Yosemite National Park; previous grants to State and bona fide entries not affected.

5210. Rules and regulations for reserve; leases of ground; preservation of fish and game; removal of trespassers.

5211. Additional forest reserves in California.

5212. Forest reserves in California; lands segregated from Yosemite National Park and included in Sierra Forest Reserve; rights of way over lands; disposition of money received for privileges.

5213. Rights of claimants and owners of land included in reserve; laws, etc., affecting forest reservations applicable within territory included.

5214. Recession by California of Yosemite Valley and Mariposa
5215. Rights of claimants and owners of lands included in reserve; laws, etc., affecting forest reservations applicable within territory included.

5216. Disposition of revenues derived from privileges.

5217. Detail of troops for protection of Sequoia, Yosemite, and General Grant Parks.

5218. Title to lands privately owned in Yosemite National Park to be secured in exchange for decayed or matured timber from certain parts of the park; timber standing near roads to be secured in exchange for timber in other parts of the park.

5219. Determination of values of lands and timber to be exchanged; payment for timber in excess of value of land; lands to be secured added to Yosemite National Park.

5220. Regulations for cutting and removal of timber; bond for payment of damages.

5221. Sale of matured, dead or down timber in park.

5222. Lease of land in Yosemite National Park for hotel, etc.

5223. Mount Rainier National Park; establishment; removal of trespassers.

5224. Park under control of Secretary of Interior; regulations; leases for erection of buildings; rights of way to park through Pacific Forest Reserve; protection of fish and game; removal of trespassers.

5225. Grant of lands to Northern Pacific Railroad in lieu of lands relinquished; lieu lands to settlers.

5226. Mineral land laws extended to reserve and park.

5227. Mount Rainier National Park; location of mining claims within park prohibited.
aside as national park, etc., not affected by act for admission to the Union of the State of Oklahoma; rights and jurisdiction of United States in and over lands so set aside; State not entitled to select indemnity school lands for sections within park, etc., or other reservation, etc.

5246. Sulphur Springs Reservation named Platt National Park.
5247. Glacier National Park; establishment; removal of trespassers; claims, etc., and rights under land laws not affected; rights of way for railways; reclamation projects; indemnity selections of lands not to be allowed to railroad, etc., corporations for loss of lands within park.
5248. Park under control of Secretary of Interior; regulations; leases for erection of buildings; sale and removal of matured or dead and down timber.
5249. Glacier National Park; proceeds of leases and other revenues to be expended in administration and improvement of park.
5250. Limit on cost of buildings to be erected in the future in national parks.
5251. Hot Springs reservation; establishment; leases of ground, bath houses, and supply of water; dedication of Hot Springs, with reservation and mountain, to United States, forever free from sale or alienation.
5252. Hot Springs Reservation; leases of bath houses and bath house sites; supply of water.
5253. Rules and regulations as to leases, privileges, supply and use of water, buildings, etc.
5254. Investigation as to interest of applicant for lease, etc., in other bath house; refusal or forfeiture of lease or privilege where parties are otherwise interested.
5255. Taxation, under laws of State, of private property on reservation.
5256. Collection of water on reservation.
5257. Sale of lots not permanently reserved.

5258. Act not to be construed to prevent operation of bath house in connection with hotel.
5259. Hot Springs Reservation, lease of Arlington Hotel site; valuation of improvements.
5260. Hot Springs Reservation; use of free bathhouses limited to persons unable to pay for baths; oath required as to lack of means; making of false oath a misdemeanor; punishment.
5261. Hot Springs Reservation; cession of jurisdiction by State of Arkansas accepted; operation of laws of United States and of Arkansas within reservation.
5262. Reservation included in eastern judicial district of Arkansas; jurisdiction of offenses committed therein.
5263. Injuries to property punishable.
5264. Taking or use of or bathing in water of springs in violation of rules and regulations or of restrictions imposed punishable.
5265. Offenses under ordinances of city of Hot Springs or laws of State of Arkansas punishable.
5266. Prosecution for violations of rules and regulations or of provisions of act.
5267. Prosecutions for other offenses.
5268. Process to be directed to United States marshal; arrests by other officers or persons.
5269. Fees of commissioner and of marshal and deputies.
5270. Fees chargeable to the United States.
5271. Disposition of fines and costs.
5272. Imprisonment for nonpayment of fines or costs, or while awaiting trial without bail.
5273. Execution of sentence upon conviction.
5274. National Bison Range; establishment; care and maintenance of bison.
5275. Wind Cave National Game Preserve; establishment.
5276. Wyoming Elk Reserve; establishment.
5277. Wyoming Elk Refuge; establishment.
5278. American antiquities; appropriation, etc., or destruction of objects of antiquity on lands of United States without permission, punishable; penalty.
§ 5188. (R. S. § 2474.) Public park established near the headwaters of the Yellowstone River.

The tract of land in the Territories of Montana and Wyoming, lying near the head-waters of the Yellowstone River and described as follows, to wit, commencing at the junction of Gardiner's River, with the Yellowstone River, and running east to the meridian passing ten miles to the eastward of the most eastern point of Yellowstone Lake; thence south along said meridian to the parallel of latitude passing ten miles south of the most southern point of Yellowstone Lake; thence west along said parallel to the meridian passing fifteen miles west of the most western point of Madison Lake; thence north along said meridian to the latitude of the junction of the Yellowstone and Gardiner's Rivers; thence east to the place of beginning, is reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park or pleasing-ground for the benefit and enjoyment of the people; and all persons who locate, or settle upon, or occupy any part of the land thus set apart as a public park, except as provided in the following section, shall be considered trespassers and removed therefrom.

Act March 1, 1872, c. 24, § 1, 17 Stat. 82.

§ 5189. (R. S. § 2475.) Secretary of the Interior to have exclusive control of the park; removal of trespassers.

Such public park shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be, as soon as practicable, to make and publish such regulations as he may deem necessary or proper for the care and management of the same. Such regulations shall provide for the preservation, from injury or spoliation, of all timber, mineral deposits, natural curiosities, or wonders, within the park, and their retention in their natural condition. The Secretary may, in his discretion, grant leases for building purposes for terms not exceeding ten years, of small parcels of ground, at such places in the park as may require the erection of buildings for the accommodation of visitors; all of the proceeds of such leases, and all other revenues that may be derived from any source connected with the park, to be expended under his direction in the management of the same, and the construction of roads and bridle-paths therein. He shall provide against the wanton destruction of the fish and game found within the park, and against their capture or destruction for the purposes of merchandise or profit. He shall also cause all persons trespassing upon the same to be removed therefrom, and generally is authorized to take all such measures as may be necessary or proper to fully carry out the objects and purposes of this section.

Act March 1, 1872, c. 24, § 2, 17 Stat. 83.

Subsequent more specific provisions for the control and regulation of the
§ 5190 NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32s)

Park were made by Act May 7, 1894, c. 72, post, §§ 5191–5196, and subsequent provisions concerning leases of lands within the park were made by Act March 3, 1883, c. 143, § 1, post, § 5202, and Act Aug. 8, 1894, c. 193, and the acts amendatory thereof, post, §§ 5204–5206.

§ 5190. (Act March 3, 1883, c. 143, § 1.) Detail of troops for protection of Yellowstone Park.

The Secretary of War, upon the request of the Secretary of the Interior, is hereby authorized and directed to make the necessary details of troops to prevent trespassers or intruders from entering the park for the purpose of destroying the game or objects of curiosity therein, or for any other purpose prohibited by law, and to remove such persons from the park if found therein. (22 Stat. 627.)

This was a provision of the sundry civil appropriation act for the fiscal year 1884, cited above.

Similar provisions for detail of troops for protection of other parks named were made by Act June 6, 1900, c. 781, § 1, post, § 5217.

This provision was not repealed by Act May 7, 1894, c. 72, set forth below, by express provision of section 10 of that act, post, § 5200.

§ 5191. (Act May 7, 1894, c. 72, § 1.) Jurisdiction of United States over Yellowstone Park; service of state process; fugitives from justice.

The Yellowstone National Park, as its boundaries now are defined, or as they may be hereafter defined or extended, shall be under the sole and exclusive jurisdiction of the United States; and that all the laws applicable to places under the sole and exclusive jurisdiction of the United States shall have force and effect in said park: Provided, however, That nothing in this Act shall be construed to forbid the service in the park of any civil or criminal process of any court having jurisdiction in the States of Idaho, Montana, and Wyoming. All fugitives from justice taking refuge in said park shall be subject to the same laws as refugees from justice found in the State of Wyoming. (28 Stat. 73.)

This was the first section of an act entitled “An act to protect the birds and animals in Yellowstone National Park, and to punish crimes in said park, and for other purposes.” The act admitting the State of Wyoming into the Union, Act July 10, 1890, c. 664, 26 Stat. 222, contained a proviso annexed to the description of the boundaries of the State, in section 2 of the act, as follows:

“That nothing in this act contained shall repeal or affect any act of Congress relating to the Yellowstone National Park, or the reservation of the Park as now defined, or as may be hereafter defined or extended, or the power of the United States over it; and nothing contained in this act shall interfere with the right and ownership of the United States in said park and reservation as it now is or may hereafter be defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said park of civil and criminal process lawfully issued by the authority of said State.”

Section 2 of this act provided that the park should be part of the judicial district of Wyoming, and that the courts of the United States for said district should have jurisdiction of all offenses committed within said park. It was superseded by the subsequent provision constituting the State of Wyoming
and Yellowstone National Park the judicial district of Wyoming, of Jud. Code, § 115, ante, § 1106.

The other sections of the act, §§ 3–10, are set forth post, §§ 5192–5196, 5198–5200.

§ 5192. (Act May 7, 1894, c. 72, § 3.) Criminal laws of Wyoming applicable to Yellowstone Park.

If any offense shall be committed in said Yellowstone National Park, which offense is not prohibited or the punishment is not specially provided for by any law of the United States or by any regulation of the Secretary of the Interior, the offender shall be subject to the same punishment as the laws of the State of Wyoming in force at the time of the commission of the offense may provide for a like offense in the said State; and no subsequent repeal of any such law of the State of Wyoming shall affect any prosecution for said offense committed within said park. (28 Stat. 73.)

§ 5193. (Act May 7, 1894, c. 72, § 4.) Hunting and fishing prohibited in Yellowstone Park; penalties; regulations.

All hunting, or the killing, wounding, or capturing at any time of any bird or wild animal, except dangerous animals, when it is necessary to prevent them from destroying human life or inflicting an injury, is prohibited within the limits of said park; nor shall any fish be taken out of the waters of the park by means of seines, nets, traps, or by the use of drugs or any explosive substances or compounds, or in any other way than by hook and line, and then only at such seasons and in such times and manner as may be directed by the Secretary of the Interior. The Secretary of the Interior shall make and publish such rules and regulations as he may deem necessary and proper for the management and care of the park and for the protection of the property therein, especially for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonderful objects within said park; and for the protection of the animals and birds in the park, from capture or destruction, or to prevent their being frightened or driven from the park; and he shall make rules and regulations governing the taking of fish from the streams or lakes in the park. Possession within the said park of the dead bodies, or any part thereof, of any wild bird or animal shall be prima facie evidence that the person or persons having the same are guilty of violating this Act. Any person or persons, or stage or express company or railway company, receiving for transportation any of the said animals, birds, or fish so killed, taken, or caught shall be deemed guilty of a misdemeanor, and shall be fined for every such offense not exceeding three hundred dollars. Any person found guilty of violating any of the provisions of this Act or any rule or regulation that may be promulgated by the Secretary of the Interior with reference to the management and care of the park, or for the protection of the property therein, for the preservation from injury or spoliation of timber, mineral deposits, natural curiosities or wonderful objects within said park, or for the protection of the animals, birds and fish in the said park, shall be deemed guilty of a misdemeanor, and shall be sub-

Comp.St.'13—187 (2177)
§ 5193. NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32b)

jected to a fine of not more than one thousand dollars or imprison-
ment not exceeding two years, or both, and be adjudged to pay all
costs of the proceedings.

That all guns, traps, teams, horses, or means of transportation of
every nature or description used by any person or persons within
said park limits when engaged in killing, trapping, ensnaring, or cap-
turing such wild beasts, birds, or wild animals shall be forfeited to
the United States, and may be seized by the officers in said park and
held pending the prosecution of any person or persons arrested un-
der charge of violating the provisions of this Act, and upon convic-
tion under this Act of such person or persons using said guns, traps,
teams, horses, or other means of transportation such forfeiture shall
be adjudicated as a penalty in addition to the other punishment pro-
vided in this Act. Such forfeited property shall be disposed of and
accounted for by and under the authority of the Secretary of the In-
terior. (28 Stat. 73.)

§ 5194. (Act May 7, 1894, c. 72, § 5.) Commissioner for Yellow-
stone Park; jurisdiction; powers and duties.

The United States circuit court in said district shall appoint a
commissioner, who shall reside in the park, who shall have juris-
diction to hear and act upon all complaints made, of any and all
violations of the law, or of the rules and regulations made by the
Secretary of the Interior for the government of the park, and for the
protection of the animals, birds, and fish and objects of interest
therein, and for other purposes authorized by this Act. Such com-
missioner shall have power, upon sworn information, to issue pro-
cess in the name of the United States for the arrest of any person
charged with the commission of any misdemeanor, or charged with
the violation of the rules and regulations, or with the violation of
any provision of this Act prescribed for the government of said park,
and for the protection of the animals, birds, and fish in the said park,
and to try the person so charged, and, if found guilty, to impose the
punishment and adjudge the forfeiture prescribed. In all cases of
conviction an appeal shall lie from the judgment of said commis-
sioner to the United States district court for the district of Wyo-
mint, said appeal to be governed by the laws of the State of Wyo-
mint providing for appeals in cases of misdemeanor from justices of
the peace to the district court of said State; but the United States
circuit court in said district may prescribe rules of procedure and
practice for said commissioner in the trial of cases and for appeal to
said United States district court. Said commissioner shall also have
power to issue process as hereinafter provided for the arrest of
any person charged with the commission of any felony within the
park, and to summarily hear the evidence introduced, and, if he shall
determine that probable cause is shown for holding the person so
charged for trial, shall cause such person to be safely conveyed to a
secure place for confinement, within the jurisdiction of the United
States district court in said State of Wyoming, and shall certify a
transcript of the record of his proceedings and the testimony in the
case to the said court, which court shall have jurisdiction of the case:

(2178)
Provided, That the said commissioner shall grant bail in all cases bailable under the laws of the United States or of said State. All process issued by the commissioner shall be directed to the marshal of the United States for the district of Wyoming; but nothing herein contained shall be construed as preventing the arrest by any officer of the Government or employee of the United States in the park without process of any person taken in the act of violating the law or any regulation of the Secretary of the Interior: Provided, That the said commissioner shall only exercise such authority and powers as are conferred by this Act. (28 Stat. 74.)

§ 5195. (Act May 7, 1894, c. 72, § 6.) Deputy marshals for Yellowstone Park; terms of district and circuit courts.
The marshal of the United States for the district of Wyoming may appoint one or more deputy marshals for said park, who shall reside in said park. (28 Stat. 75.)

Further provisions of this section as to the places and times of sessions of the courts for the district of Wyoming were superseded by the subsequent provisions relating thereto of Jud. Code, § 115, ante, § 1106.

§ 5196. (Act May 7, 1894, c. 72, § 7.) Compensation of commissioner, marshals, and United States attorneys for Yellowstone Park.
The Commissioner provided for in this Act shall, in addition to the fees allowed by law to commissioners of the circuit courts of the United States, be paid an annual salary of [one thousand dollars], payable quarterly, and the marshal of the United States and his deputies, and the attorney of the United States and his assistants in said district, shall be paid the same compensation and fees as are now provided by law for like services in said district. (28 Stat. 75.)

The office of commissioner of the circuit court, mentioned in this section, was abolished, and the duties thereof were imposed on the United States commissioners to be appointed, by provisions of Act May 28, 1896, c. 252, § 19, ante, § 1333; and the fees of said United States commissioners were prescribed by section 21 of said Act May 28, 1896, ante, § 1451; and said section 21 of that act was not to impair the right of the commissioner in the Yellowstone Park to receive a salary, by a provision of Act April 17, 1900, c. 192, § 1, post, § 5197.

The words of this section enclosed in brackets, stating the amount of the salary of the commissioner, "one thousand dollars," were superseded by the provision fixing his salary at $1,500, of Act April 17, 1900, c. 192, § 1, post, § 5197.

§ 5197. (Act April 17, 1900, c. 192, § 1.) Salary of commissioner for Yellowstone Park.

COMMISSIONER YELLOWSTONE PARK: For salary of commissioner in Yellowstone National Park, one thousand five hundred dollars. And the provisions of section twenty-one of an Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-seven, and for other purposes, approved May twenty-eighth, eighteen hundred and ninety-six, shall not be con-
§ 5197. NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32)

Strued as impairing the right of said commissioner to receive said salary as herein provided. (31 Stat. 133.)

An appropriation for the commissioner of the same amount is made each year in the legislative, executive, and judicial appropriation act, accompanied by a provision that Act May 28, 1896, c. 252, § 21, ante, § 1451, shall not be construed as impairing the right of said commissioner to receive said salary. The provision for the fiscal year 1914 was by Act March 4, 1913, c. 142, 37 Stat. 789.

This was a provision of the legislative, executive, and judicial appropriation act for the fiscal year 1901, cited above.

§ 5198. (Act May 7, 1894, c. 72, § 8.) Costs and expenses in cases under act, how paid.

All costs and expenses arising in cases under this Act, and properly chargeable to the United States, shall be certified, approved, and paid as like costs and expenses in the courts of the United States are certified, approved, and paid under the laws of the United States. (28 Stat. 75.)

See notes to section 1 of this act, ante, § 5191.

§ 5199. (Act May 7, 1894, c. 72, § 9.) Jail, and office for commissioner in Yellowstone Park.

The Secretary of the Interior shall cause to be erected in the park a suitable building to be used as a jail, and also having in said building an office for the use of the commissioner, the cost of such building not to exceed five thousand dollars, to be paid out of any moneys in the Treasury not otherwise appropriated upon the certificate of the Secretary as a voucher therefor. (28 Stat. 75.)

No expenditure for construction of any building exceeding $1,000 was to be made in any national park except under express authority of Congress, by a provision of Act Aug. 24, 1912, c. 355, post, § 5250.

§ 5200. (Act May 7, 1894, c. 72, § 10.) Existing laws not repealed by act.

This Act shall not be construed to repeal existing laws conferring upon the Secretary of the Interior and the Secretary of War certain powers with reference to the protection, improvement, and control of the said Yellowstone National Park. (28 Stat. 75.)

See notes to section 1 of this act, ante, § 5191.

§ 5201. (Act June 6, 1900, c. 791, § 1.) Road extensions.

Improvement of Yellowstone National Park: Road extensions and improvements shall hereafter be made in said park under and in harmony with a general plan of roads and improvements to be approved by the Chief of Engineers of the Army. (31 Stat. 625.)

This was a provision of the sundry civil appropriation act for the fiscal year 1901, cited above.

Details of troops for the protection of Yellowstone National Park were authorized by a provision of Act March 3, 1883, c. 143, § 1, ante, § 5109.

Contracts for improvements in Yellowstone Park were authorized by provisions of Act June 28, 1902, c. 1301, § 1, post, § 9016.

§ 5202. (Act March 3, 1883, c. 143, § 1.) Leases of lands in Yellowstone Park for hotels, etc.

The Secretary of the Interior may lease small portions of ground in the park, not exceeding ten acres in extent for each tract, on (2180)
which may be erected hotels and the necessary outbuildings, and for
a period not exceeding ten years; but such lease shall not include
any of the geysers or other objects of curiosity or interest in said
park, or exclude the public from the free and convenient approach
thereto; or include any ground within one quarter of a mile of the
geyser, or the Yellowstone Falls, nor shall there be leased more
than ten acres to any one person or corporation; nor shall any hotel
or other buildings be erected within the park until such lease shall
be executed by the Secretary of the Interior, and all contracts, agree-
ments, or exclusive privileges heretofore made or given in regard to
said park or any part thereof, are hereby declared to be invalid; nor
shall the Secretary of the Interior, in any lease which he may make
and execute, grant any exclusive privileges within said park, except
upon the ground leased. (22 Stat. 626.)

These were provisions of the sundry civil appropriation act for the fiscal year
1884, cited above.
The provisions of this act were superseded to a great extent by similar pro-
visions of Act Aug. 5, 1894, c. 198, post, § 5203.

§ 5203. (Act Aug. 3, 1894, c. 198.) Leases of lands in Yellow-
stone Park for hotels, etc.
The Secretary of the Interior is hereby authorized and empow-
ered to lease to any person, corporation, or company, for a period
not exceeding ten years, at such annual rental as the Secretary of
the Interior may determine, parcels of land in the Yellowstone
National Park, of not more than ten acres in extent for each tract
and not in excess of twenty acres in all to any one person, cor-
poration, or company on which may be erected hotels and neces-
sary outbuildings: Provided, That such lease or leases shall not
include any of the geysers or other objects of curiosity or inter-
est in said park, or exclude the public from free and convenient ap-
proach thereto or include any ground within one-eighth of a mile
of any of the geysers or the Yellowstone Falls, the Grand Canyon,
or the Yellowstone River, Mammoth Hot Springs, or any object of
curiosity in the park: And provided further, That such leases shall
not convey, either expressively or by implication, any exclusive privi-
lege within the park except upon the premises held thereunder and
for the time therein granted. Every lease hereafter made for any
property in said park shall require the lessee to observe and obey
each and every provision in any Act of Congress, and every rule,
order, or regulation made, or which may hereafter be made and pub-
lished by the Secretary of the Interior concerning the use, care, man-
age, or government of the park, or any object or property there-
in, under penalty of forfeiture of such lease, and every such lease
shall be subject to the right of revocation and forfeiture, which shall
therein be reserved by the Secretary of the Interior: And provided
further, That persons or corporations now holding leases of ground
in the park may, upon the surrender thereof, be granted new leases
hereunder, and upon the terms and stipulations contained in their
present leases, with such modifications, restrictions, and reservations
as the Secretary of the Interior may prescribe.

(2181)
This act, however, is not to be construed as mandatory upon the Secretary of the Interior, but the authority herein given is to be exercised in his sound discretion.

That so much of that portion of the Act of March third, eighteen hundred and eighty-three, relating to the Yellowstone Park as conflicts with this Act be, and the same is hereby, repealed. (28 Stat. 222.)

This was an act entitled "An act concerning leases in the Yellowstone National Park."

Previous provisions authorizing the Secretary of the Interior to make leases of certain portions of the park, of Act March 3, 1883, c. 143, § 1, are set forth ante, § 5202.

Provisions amending this act, of Act June 4, 1906, c. 2570, and Act March 2, 1907, c. 2618, are set forth post, §§ 5204, 5206.

The use, by private parties doing business in the park, of electricity furnished by the electric plant of Fort Yellowstone and Mammoth Hot Springs may be permitted by a provision of Act March 3, 1903, c. 1007, § 1, post, § 5206.

The granting of a lease for the construction of a hotel and other buildings in Yosemite National Park under the provisions of this section and Act March 3, 1903, c. 1007, post, § 5206, amendatory thereof, was authorized by Act June 23, 1913, c. 3, § 1, post, § 5222.

§ 5204. (Act June 4, 1906, c. 2570.) Leases of lands in Yellowstone National Park for hotels, etc.; mortgages by lessees, subject to leases and contracts; provisions of existing law continued in force.

The Secretary of the Interior is hereby authorized and empowered to lease for a period not exceeding ten years, at an annual rental to be determined by him, to any person, corporation, or company he may authorize to transact business in the Yellowstone National Park separate tracts of land, not exceeding twenty acres each, at such places not to exceed ten in number to any one person, corporation, or company, in said park as the comfort and convenience of visitors may require, for the construction and maintenance of substantial hotel buildings and buildings for the protection of stage, stock, and equipment.

Any person, corporation, or company holding a lease within said park for the purposes above described is hereby authorized, with the approval of the Secretary of the Interior, to execute mortgages upon his or its rights, properties, and franchises, including his or its contract or contracts with the Secretary of the Interior, and such mortgages, together with the approval of said Secretary of the Interior, may be filed for record in the office of the Secretary of the Interior, and when so recorded shall have all the effect of a public record.

Any mortgage, lien, or incumbrance created under the provisions hereof shall be subject to the rights of the Government to compel the enforcement of the terms of the lease or contract of the mortgagor, and any purchaser under a foreclosure of such incumbrance shall take subject to all the conditions assumed by the original lessee or contractor.

All provisions of existing law in relation to said park not in conflict (2182)
herewith are hereby continued in full force and effect. (34 Stat. 207.)

This was an act entitled "An act to amend an act approved August third, eighteen hundred and ninety-four, entitled 'An act concerning leases in the Yellowstone National Park.'"

Act Aug. 3, 1894, c. 108, mentioned in the title of this act as amended thereby, which authorized the Secretary of the Interior to lease lands in Yellowstone National Park, is set forth ante, § 5203.

This act was amended by authorizing leases, according to its other terms, for a period not exceeding twenty years, by Act March 2, 1907, c. 2518, post, § 5206.

§ 5205. (Act March 2, 1907, c. 2518.) Amendment of Act June 4, 1906, c. 2570; leases of lands in Yellowstone National Park; period.

The Act entitled "An Act to amend an Act approved August third, eighteen hundred and ninety-four, entitled 'An Act concerning leases in the Yellowstone National Park,'" approved June fourth, nineteen hundred and six, be, and the same is hereby, so amended that the Secretary of the Interior shall be authorized and empowered to lease, according to the other terms of said amended Act, for a period not exceeding twenty years. (34 Stat. 1219.)

Act June 4, 1906, c. 2570, mentioned in and amended by this act, is set forth ante, § 5204.

§ 5206. (Act March 3, 1903, c. 1007, § 1.) Use of electricity from lighting and power plant in Yellowstone Park by private parties.

Private parties or companies doing business in the Yellowstone National Park under authority from the Government may be permitted, in the discretion of the Secretary of War, to use electricity furnished by the electric lighting and power plant of Fort Yellowstone and Mammoth Hot Springs at actual cost to the Government for operation, maintenance, and depreciation of the plant and ten per centum additional, under such regulations as may be prescribed by the Secretary of War. (32 Stat. 1130.)

This was a provision of the sundry civil appropriation act for the fiscal year 1904, cited above.

Leases of lands in the park to private parties were authorized by Act Aug. 3, 1894, c. 108, and subsequent acts amendatory thereof, ante, §§ 5203-5205.

§ 5207. (Act Sept. 25, 1890, c. 926, § 1.) Public park in California; Sequoia National Park.

The tract of land in the State of California known and described as township numbered eighteen south, of range numbered thirty east, also township eighteen south range thirty-one east; and sections thirty-one, thirty-two, thirty-three, and thirty-four, township seventeen, south range thirty east, all east of Mount Diablo meridian, is hereby reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart as a public park, or pleasure ground, for the benefit and enjoyment of the people; and all persons who shall locate or settle (2183)
§ 5207  NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32B

upon, or occupy the same or any part thereof, except as hereinafter
provided, shall be considered trespassers and removed therefrom.
(26 Stat. 478.)

This section and the section next following were an act entitled "An act
to set apart a certain tract of land in the State of California as a public
park."

It was preceded by a preamble which read as follows:

"Whereas, the rapid destruction of timber and ornamental trees in various
parts of the United States, some of which trees are the wonders of the world
on account of their size and the limited number growing, makes it a matter
of importance that at least some of said forests should be preserved: There-
fore"

Other lands in California were set apart as forest reserves, and provisions
similar to those of this act in regard to rules and regulations, leases of ground,
preservation of fish and game, trespassers, etc., were made by Act Oct. 1, 1890,
c. 1288, and Act Feb. 7, 1905, c. 547, post, §§ 5209-5213.

The lands reserved by section 3 of said Act Oct. 1, 1890, c. 1283, post, §
5211, adjoin the lands reserved by this section.

The forest lands set aside and reserved in said Act Feb. 7, 1906, c. 547, §
1, were to be known as the "Yosemite National Park," by a provision of said
section, post, § 5212.

On the acceptance of the recession by the State of California of the Yosemite
Valley and the Mariposa Big Tree Grove, said tracts, with other lands, were
set apart as reserved forest lands and made part of the Yosemite National
Park, and the south and west boundary lines of the park were changed, and
lands thereby excluded from the park were added to the Sierra Forest Re-
serve, by Res. June 11, 1906, No. 27, § 1, post, § 5214.

The detail of troops for the protection of the lands set apart by this act,
included in the Sequoia National Park, and of the Yosemite National Park
and the General Grant National Park, was authorized by a provision of Act
June 6, 1900, c. 781, § 1, post, § 5217.

§ 5208. (Act Sept. 25, 1890, c. 926, § 2.) Rules and regulations
for park; leases of ground; preservation of fish and game;
removal of trespassers.

Said public park shall be under the exclusive control of the
Secretary of the Interior, whose duty it shall be, as soon as prac-
ticable, to make and publish such rules and regulations as he may deem
necessary or proper for the care and management of the same. Such
regulations shall provide for the preservation from injury of all timber,
mineral deposits, natural curiosities or wonders within said park, and
their retention in their natural condition. The Secretary may, in his
discretion, grant leases for building purposes for terms not exceeding
ten years of small parcels of ground not exceeding five acres, at such
places in said park as shall require the erection of buildings for the
accommodation of visitors; all of the proceeds of said leases and other
revenues that may be derived from any source connected with said
park to be expended under his direction in the management of the
same and the construction of roads and paths therein. He shall pro-
vide against the wanton destruction of the fish and game found within
said park, and against their capture or destruction, for the purposes of
merchandise or profit. He shall also cause all persons trespassing upon
the same after the passage of this act to be removed therefrom, and, in
generally, shall be authorized to take all such measures as shall be

(2184)
necessary or proper to fully carry out the objects and purposes of this act. (26 Stat. 478.)

No expenditure for construction of any building exceeding $1,000 in any national park was to be made, except under express authority of Congress, by Act Aug. 24, 1912, c. 355, post, § 5250.

§ 5209. (Act Oct. 1, 1890, c. 1263, § 1.) Forest reserve in California; Yosemite National Park; previous grants to State and bona fide entries not affected.

The tracts of land in the State of California known as described as follows: Commencing at the northwest corner of township two north, range nineteen east Mount Diablo meridian, thence eastwardly on the line between townships two and three north, ranges twenty-four and twenty-five east; thence southwardly on the line between ranges twenty-four and twenty-five east to the Mount Diablo base line; thence eastwardly on said base line to the corner to township one south, ranges twenty-five and twenty-six east; thence southwardly on the line between ranges twenty-five and twenty-six east to the south-east corner of township two south, range twenty-five east; thence eastwardly on the line between townships two and three south, range twenty-six east to the corner to townships two and three south, ranges twenty-six and twenty-seven east; thence southwardly on the line between ranges twenty-six and twenty-seven east to the first standard parallel south; thence westwardly on the first standard parallel south to the southwest corner of township four south, range nineteen east; thence northwardly on the line between ranges eighteen and nineteen east to the northwest corner of township two south, range nineteen east; thence westwardly on the line between townships one and two south to the southwest corner of township one south, range nineteen east; thence northwardly on the line between ranges eighteen and nineteen east to the northwest corner of township two north, range nineteen east, the place of beginning, are hereby reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and set apart as reserved forest lands; and all persons who shall locate or settle upon, or occupy the same or any part thereof, except as hereinafter provided, shall be considered trespassers and removed therefrom: Provided, however, That nothing in this act shall be construed as in anywise affecting the grant of lands made to the State of California by virtue of the act entitled "An act authorizing a grant to the State of California of the Yosemite Valley, and of the land embracing the Mariposa Big-Tree Grove, approved June thirtieth, eighteen hundred and sixty-four; or as affecting any bona-fide entry of land made within the limits above described under any law of the United States prior to the approval of this act. (26 Stat. 630.)

This section and the two sections next following were an act entitled "An act to set apart certain tracts of land in the State of California as forest reservations."

Other lands in California were set apart as a public park, and provisions similar to those of this act in regard to rules and regulations, leases of ground, preservation of fish and game, trespassers, etc., were made, by Act Sept. 25, 1880, c. 928, ante, §§ 5207, 5208.

All the lands described in this section, not included within the metes and

(2185)
§ 5209 NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 328)

bounds of the land described in Act Feb. 7, 1906, c. 547, § 1, post, § 5212, were included in and made part of the Sierra Forest Reserve, by a proviso annexed to said section.

The recession by the State of California of the Yosemite Valley and the Mariposa Big Tree Grove was accepted, and said tracts with other lands were set apart as reserved forest lands, subject to the provisions of this act, and were to form a part of the Yosemite National Park, and certain lands were excluded from said park by a change of the south and west boundaries thereof, and were made a part of the Sierra Forest Reserve, by Res. June 11, 1906, No. 27, post, §§ 5214-5216.

§ 5210. (Act Oct. 1, 1890, c. 1263, § 2.) Rules and regulations for reserve; leases of ground; preservation of fish and game; removal of trespassers.

Said reservation shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be, as soon as practicable, to make and publish such rules and regulations as he may deem necessary or proper for the care and management of the same. Such regulations shall provide for the preservation from injury of all timber, mineral deposits, natural curiosities, or wonders within said reservation, and their retention in their natural condition. The Secretary may, in his discretion, grant leases for building purposes for terms not exceeding ten years of small parcels of ground not exceeding five acres; at such places in said reservation as shall require the erection of buildings for the accommodation of visitors; all of the proceeds of said leases and other revenues that may be derived from any source connected with said reservation to be expended under his direction in the management of the same and the construction of roads and paths therein. He shall provide against the wanton destruction of the fish, and game found within said reservation, and against their capture or destruction, for the purposes of merchandise or profit. He shall also cause all persons trespassing upon the same after the passage of this act to be removed therefrom, and, generally, shall be authorized to take all such measures as shall be necessary or proper to fully carry out the objects and purposes of this act. (26 Stat. 651.)

See notes to section 1 of this act, ante, § 5209.

The lands set apart as reserved forest lands by Act Feb. 7, 1906, c. 547, § 1, and by Res. June 11, 1906, No. 27, § 1, were made subject to all the provisions of this act, by provisions of each of said sections, post, §§ 5212, 5214.

Provisions similar to those of this section, applicable to forest reservations in general were made by Act June 4, 1897, c. 2, § 1, ante, §§ 5123-5134.

The disposition of revenues derived from privileges in Yosemite National Park under this act and other acts, or from privileges on lands segregated from the park and included within the Sierra Forest Reserve, was provided for by Res. June 11, 1906, No. 27, § 3, post, § 5218.

Details of troops for the protection of the lands set apart by this act, included in the Yosemite National Park, and of the Sequoia National Park and the General Grant National Park were authorized by a provision of Act June 6, 1900, c. 791, § 1, post, § 5217.

The granting of a lease for the construction of a hotel and other buildings in connection therewith, under the provisions of Act June 4, 1906, c. 2518, ante, § 5204, relating to concessions in Yellowstone National Park, and Act March 2, 1907, c. 2518, ante, § 5205, amendatory thereof, was authorized by Act June 23, 1918, c. 3, § 1, post, § 5222, which repealed so much of this section as conflicted therewith.

The exchange of timber within Yosemite National Park for the title to pat-
ent lands within its boundaries was authorized by Act April 9, 1912, c. 74, post, §§ 5218-5221.

A right of way through the Yosemite National Park for aqueducts, canals, pipe lines, etc., for conveying water for domestic and municipal purposes, and for power and electric plants, etc., and roads, railroads, and other means of transportation, and also reservoir and dam sites in the Hetch Hetchy Valley and Lake Eleanor Basin, in said park, were granted to the City and County of San Francisco, under certain conditions and restrictions, by Act Dec. 19, 1913, c. 8, 38 Stat.—

No expenditure for the construction of any building exceeding $1,000 can be made in any national park, except under express authority of Congress, by Act Aug. 24, 1912, c. 386, post, § 5250.

§ 5211. (Act Oct. 1, 1890, c. 1263, § 3.) Additional forest reserves in California.

There shall also be and is hereby reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and shall be set apart as reserved forest lands, as hereinbefore provided, and subject to all the limitations and provisions herein contained, the following additional lands, to wit: Township seventeen, south, range thirty east of the Mount Diablo meridian, excepting sections thirty-one, thirty-two, thirty-three, and thirty-four of said township, included in a previous bill. And there is also reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and set apart as forest lands, subject to like limitations, conditions and provisions, all of townships fifteen and sixteen, south, of ranges twenty-nine and thirty east of the Mount Diablo meridian. And there is also hereby reserved and withdrawn from settlement, occupancy or sale under the laws of the United States, and set apart as reserved forest lands under like limitations, restrictions and provisions, Sections five and six in township fourteen, south, range twenty-eight, east of Mount Diablo meridian, and also Sections thirty-one and thirty-two of township thirteen, south, range twenty-eight east of the same meridian. Nothing in this act shall authorize rules or contracts touching the protection and improvement of said reservations, beyond the sums that may be received by the Secretary of the Interior under the foregoing provisions, or authorize any charge against the Treasury of the United States. (26 Stat. 651.)

See notes to section 1 of this act, ante, § 5209.

The lands reserved by this section adjoin those reserved by Act Sept. 25, 1890, c. 926, § 1, ante, § 5207.

§ 5212. (Act Feb. 7, 1905, c. 547, § 1.) Forest reserves in California; lands segregated from Yosemite National Park and included in Sierra Forest Reserve; rights of way over lands; disposition of money received for privileges.

The tracts of land in the State of California known and described as follows: Beginning at the point where the middle of the channel of the South Fork of the Merced River intersects the line between sections three and four, township four south, range twenty east, Mount Diablo base and meridian; thence northerly along section lines through the middle of townships three and four south, range twenty east, to the northwest corner of section three, township three south, range twenty east; thence westerly along township

(2187)
line to the southwest corner of section thirty-three, township two south, range twenty east; thence northerly along section lines to the northwest corner of section twenty-one, said township; thence westerly along section lines to the southwest corner of section eighteen, said township; thence southerly along range line to the southeast corner of the northeast quarter of section twenty-four, township two south, range nineteen east; thence westerly to the southwest corner of the northeast quarter of section twenty-four, said township; thence southerly to the southwest quarter of the southwest quarter of section twenty-four, said township; thence westerly along section lines to the southwest corner of section twenty-three, said township; thence northerly along section lines to the northwest corner of the southwest quarter of section fourteen, said township; thence easterly to the northeast corner of the southeast quarter of section fourteen, said township; thence northerly along section line to the northwest corner of section thirteen, said township; thence easterly along section line to the northeast corner of section thirteen, said township; thence northerly along range line to the northwest corner of the southwest quarter of section seven, township two south, range twenty east; thence easterly to the northeast corner of the southeast quarter of section seven, said township; thence southerly along section line to the northwest corner of section seventeen, said township; thence easterly along section lines to the northeast corner of section sixteen, said township; thence northerly along section lines to the northeast corner of section three, said township; thence westerly along township line to the southwest corner of section thirty-three, township one south, range twenty east; thence northerly along section lines to the northwest corner of section twenty-one, said township; thence westerly along section lines to the southwest corner of section eighteen, said township; thence northerly along range line to the northwest corner of section six, said township; thence westerly along Mount Diablo base line to the southwest corner of section thirty-four, township one north, range nineteen east; thence northerly along section lines through the middle of townships one and two north, range nineteen east, to the point of intersection with the summit of the divide between Cherry Creek on the west and Eleanor and Fall creeks on the east; thence along the summit of said divide in a northeasterly direction to the summit of the Sierra Nevada Mountains; thence southeasterly along the summit of the Sierra Nevada Mountains to the divide between the Merced and San Joaquin rivers; thence southwesterly along said divide to the point of intersection with the south boundary of township four south, range twenty-three east, Mount Diablo base and meridian; thence westerly along township line to the point of intersection with the middle of the channel of the South Fork of the Merced River; thence westerly down the middle of said river to the place of beginning, are hereby reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and set apart as reserved forest lands, subject to all the provisions of the Act of Congress approved October first, eighteen hundred and ninety, entitled "An Act to set apart certain tracts of land in the State of California as forest reservations:" Provided, That all those tracts or par-
cells of land described in section one of the said Act of October first, eighteen hundred and ninety, and not included within the metes and bounds of the land above described, be, and the same are hereby, included in and made part of the Sierra Forest Reserve: And provided further, That the Secretary of the Interior may require the payment of such price as he may deem proper for privileges on the land herein segregated from the Yosemite National Park and made a part of the Sierra Forest Reserve accorded under the Act approved February fifteenth, nineteen hundred and one, relating to rights of way over certain parks, reservations, and other lands, and other acts concerning rights of way over public lands; and the moneys received from the privileges accorded on the lands herein segregated and included in the Sierra Forest Reserve shall be paid into the Treasury of the United States, to be expended, under the direction of the Secretary of the Interior, in the management, improvement, and protection of the forest lands herein set aside and reserved, which shall hereafter be known as the “Yosemite National Park.” (33 Stat. 702.)

This section and the section next following were part of an act entitled “An act to exclude from the Yosemite National Park, California, certain lands therein described, and to attach and include the said lands in the Sierra Forest Reserve.”

Section 8 of that act provided that it should take effect and be in force from and after its passage.

The provisions of Act Oct. 1, 1890, c. 1263, mentioned in this section, setting apart certain lands in California as forest reservations, are set forth ante, §§ 5200–5212.

Act Feb. 15, 1901, c. 372, also mentioned in this section, relating to rights of way over certain parks, reservations, etc., including Yosemite National Park, is ante, § 4946.

On the acceptance of the recession by the State of California of the Yosemite Valley and Mariposa Big Tree Grove, which, with other lands, were set apart as reserved forest lands and form a part of Yosemite National Park, the south and west boundaries of said park were changed, and the lands thereby excluded from said park were added to and made a part of the Sierra Forest Reserve, with provisions relating thereto similar to those of this act, by Res. June 11, 1906, No. 27, post, §§ 5214–5216.

Provisions similar to those in the last proviso of this section, relating to the disposition of revenues derived from privileges in Yosemite National Park under this act and other acts, as well as from privileges on lands segregated from the park and included within the Sierra Forest Reserve, were contained in Res. June 11, 1906, No. 27, § 8, post, § 5216.

§ 5213. (Act Feb. 7, 1905, c. 547, § 2.) Rights of claimants and owners of lands included in reserve; laws, etc., affecting forest reservations applicable within territory included.

None of the lands patented and in private ownership in the area hereby included in the Sierra Forest Reserve shall have the privileges of the lieu-land scrip provisions of the land laws, but otherwise to be in all respects under the laws and regulations affecting the forest reserves, and immediately upon the passage of this Act all laws, rules, and regulations affecting forest reservations, including the right to change the boundaries thereof by Executive proclamation, shall take effect and be in force within the limits of the territory excluded
§ 5218  NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32b)

by this Act from the Yosemite National Park, except as herein otherwise provided. (33 Stat. 703.)

Previous provisions affecting forest reserves, now called national forests, mentioned in this section, are set forth in Title XXXII A, "The National Forests."

The lieu-land scrip provisions, mentioned therein, contained in Act June 4, 1897, c. 2, § 1, Act June 6, 1900, c. 701, § 1, and Act March 3, 1901, c. 831, § 1, were repealed by Act March 3, 1905, c. 1495, 33 Stat. 1264.

Subsequent provisions in the same language as this section, relating to lands included in the Sierra Forest Reserve, were made by Res. June 11, 1906, No. 27, § 2, post, § 5217.

§ 5214. (Res. June 11, 1906, No. 27, § 1.) Recession by California of Yosemite Valley and Mariposa Big Tree Grove accepted, and lands set apart as reserved forest lands and part of Yosemite National Park; boundaries of park changed, and lands excluded thereby added to Sierra Forest Reserve; disposition of money received for privileges; grants of right of way for railways.

The recession and regranting unto the United States by the State of California of the cleft or gorge in the granite peak of the Sierra Nevada Mountains, situated in the county of Mariposa, State of California, and the headwaters of the Merced River, and known as the Yosemite Valley, with its branches or spurs, granted unto the State of California in trust for public use, resort, and recreation by the Act of Congress entitled "An Act authorizing a grant to the State of California of the Yosemite Valley and of the land embracing the Mariposa Big Tree Grove," approved June thirtieth, eighteen hundred and sixty-four (Thirteenth Statutes, page three hundred and twenty-five), as well as the tracts embracing what is known as the "Mariposa Big Tree Grove," likewise granted unto the State of California by the aforesaid Act of Congress, is hereby ratified and accepted, and the tracts of land embracing the Yosemite Valley and the Mariposa Big Tree Grove, as described in the Act of Congress approved June thirtieth, eighteen hundred and sixty-four, together with that part of fractional sections five and six, township five south, range twenty-two east, Mount Diablo meridian, California, lying south of the South Fork of Merced River and almost wholly between the Mariposa Big Tree Grove and the present south boundary of the Yosemite National Park, be, and the same are hereby, reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States and set apart as reserved forest lands, subject to all the limitations, conditions, and provisions of the Act of Congress approved October first, eighteen hundred and ninety, entitled "An Act to set apart certain tracts of land in the State of California as forest reservations," as well as the limitations, conditions, and provisions of the Act of Congress approved February seventh, nineteen hundred and five, entitled "An Act to exclude from the Yosemite National Park, California, certain lands therein described, and to attach and include the said lands in the Sierra Forest Reserve," and shall hereafter form a part of the Yosemite National Park.

The south and west boundary lines of the Yosemite National Park

(2190)
are hereby changed as follows: Beginning at the point on the line between sections thirty-five and thirty-six, township four south, range twenty-one east, where same intersects the middle of the channel of the South Fork of the Merced River; thence north on section line to the southwest corner of section twenty-five; thence west on section lines to the southwest corner of section twenty-eight; thence north on section line to the northwest corner of section twenty-eight; thence west on section line to the quarter-section corner between sections twenty and twenty-nine; thence north through the middle of section twenty to the center thereof; thence east through the middle of section twenty to the quarter-section corner between sections twenty and twenty-one; thence north on section line to the quarter-section corner between sections sixteen and seventeen; thence west through middle of section seventeen to the center thereof; thence north through the middle of sections seventeen, eight, and five to the quarter-section corner of north boundary of section five on township boundary, all in township four south, range twenty-one east; thence north through the middle of section thirty-two, township three south, range twenty-one east, to the center thereof; thence west through the middle of section thirty-two, said township, and section thirty-six, township three south, range twenty east, to the quarter-section corner between sections thirty-five and thirty-six; thence north on section line to the quarter-section corner between sections twenty-five and twenty-six; thence east through the middle of section twenty-five to the center thereof; thence north through the middle of sections twenty-five and twenty-four to the center of section twenty-four; thence west through the middle of sections twenty-four, twenty-three, and twenty-two to the quarter-section corner between sections twenty-one and twenty-two, township three south, range twenty east, on the present western boundary of the Yosemite National Park. And all that portion of the Yosemite National Park lying between the boundary line last above mentioned and the present boundary line of said national park is excluded from said park; and the said lands so excluded, and all thereof, are added to and made a part of the Sierra Forest Reserve, and shall hereafter form a part of said Sierra Forest Reserve, and shall be subject to all of the Acts of Congress with relation thereto: Provided, That the Secretary of the Interior may require the payment of such price as he may deem proper for privileges on the land herein segregated from the Yosemite National Park and made a part of the Sierra Forest Reserve accorded under the Act approved February fifteenth, nineteen hundred and one, relating to rights of way over certain parks, reservations, and other lands, and other Acts concerning rights of way over public lands: And provided further, That in the grant of any right of way for railway purposes across the lands placed under this measure within the Sierra Forest Reserve it shall be stipulated that no logs or timber shall be hauled over the same without the consent of the Secretary of the Interior, and under regulations to be promulgated by him. (34 Stat. 831.)

Act Oct. 1, 1890, c. 1263, and Act Feb. 7, 1905, c. 547, mentioned in this section, are set forth ante, §§ 5209-5213.

Act Feb. 15, 1901, c. 372, also mentioned in this section, relating to rights
§ 5215. (Res. June 11, 1906, No. 27, § 2.) Rights of claimants and owners of lands included in reserve; laws, etc., affecting forest reservations applicable within territory included.

None of the lands patented and in private ownership in the area hereby included in the Sierra Forest Reserve shall have the privileges of the lieu-land scrip provisions of the land laws, but otherwise to be in all respects under the laws and regulations affecting the forest reserves, and immediately upon the passage of this Act all laws, rules, and regulations affecting forest reservations, including the right to change the boundaries thereof by Executive proclamation, shall take effect and be in force within the limits of the territory excluded by this Act from the Yosemite National Park, except as herein otherwise provided. (34 Stat. 832.)

Previous provisions in the same language as this section, relating to lands included in the Sierra Forest Reserve, were made by Act Feb. 7, 1905, c. 547, § 2, ante, § 5213.

§ 5216. (Res. June 11, 1906, No. 27, § 3.) Disposition of revenues derived from privileges.

All revenues derived from privileges in the park authorized under the Act of October first, eighteen hundred and ninety, the Act of February seventh, nineteen hundred and five, as well as under this measure, or from privileges accorded on the lands herein segregated from said park and included within the Sierra Forest Reserve, shall be paid into the Treasury of the United States, to be expended under the direction of the Secretary of the Interior in the management, protection, and improvement of the Yosemite National Park. (34 Stat. 832.)

Act Oct. 1, 1890, c. 1263, and Act Feb. 7, 1905, c. 547, mentioned in this section, are set forth ante, §§ 5200-5213.

Previous provisions similar to those of this section, relating to moneys received for privileges on lands segregated from Yosemite National Park and included in the Sierra Forest Reserve, were contained in said Act Feb. 7, 1905, c. 547, § 1, ante, § 5212.

§ 5217. (Act June 6; 1900, c. 791, § 1.) Detail of troops for protection of Sequoia, Yosemite, and General Grant Parks.

The Secretary of War, upon the request of the Secretary of the Interior, is hereafter authorized and directed to make the necessary detail of troops to prevent trespassers or intruders from entering the Sequoia National Park, the Yosemite National Park, and the General Grant National Park, respectively, in California, for the purpose of destroying the game or objects of curiosity therein, or for any other purpose prohibited by law or regulation for the government of said reservations, and to remove such persons from said parks if found therein. (31 Stat. 618.)

This was a provision of the sundry civil appropriation act for the fiscal year 1901, cited above.

The Secretary of the Interior was authorized to grant rights of way through...
the Yosemite, Sequoia, and General Grant National Parks for electrical plants, poles, and lines for the generation and distribution of electrical power, for telephone and telegraph purposes, for canals, ditches, pipes, and pipe lines, flumes, tunnels, or other water conduits, and for water plants, dams, and reservoirs used to promote irrigation or mining or quarrying, or the manufacturing or cutting of timber or lumber, or the supplying of water for domestic, public, or any other beneficial uses, by Act Feb. 15, 1901, c. 372, ante, § 4946.

The Secretary of the Interior was authorized to open negotiations leading to obtaining possession of the “Mammoth Tree Grove” and the “South Park Grove of Big Trees” in Calaveras county, Cal., by Joint Res. March 8, 1900, No. 10, 31 Stat. 711.

Details of troops for the protection of Yellowstone Park were authorized by a provision of Act March 3, 1883, c. 143, § 1, ante, § 5190.

§ 5218. (Act April 9, 1912, c. 74, § 1.) Title to lands privately owned in Yosemite National Park to be secured in exchange for decayed or matured timber from certain parts of the park; timber standing near roads to be secured in exchange for timber in other parts of the park.

The Secretary of the Interior for the purpose of eliminating private holdings within the Yosemite National Park and the preservation intact of the natural timber along the roads in the scenic portions of the park, both on patented and park lands, is hereby empowered, in his discretion, to obtain for the United States the complete title to any or all of the lands held in private ownership within the boundaries of said park, by the exchange of decayed or matured timber, that can be removed from such parts of the park as will not affect the scenic beauty thereof, for lands of equal value held in private ownership therein, and also, in his discretion, to exchange for timber standing near the public roads on patented lands timber of equal value on park lands in other parts of the park. (37 Stat. 80.)

This section and the three sections next following were an act entitled “An act to authorize the Secretary of the Interior to secure for the United States title to patented lands in the Yosemite National Park, and for other purposes.”

§ 5219. (Act April 9, 1912, c. 74, § 2.) Determination of values of lands and timber to be exchanged; payment for timber in excess of value of land; lands to be secured added to Yosemite National Park.

The value of patented lands within the park offered in exchange, and the value of the timber on park lands proposed to be given in exchange for such patented lands, shall be ascertained in such manner as the Secretary of the Interior may, in his discretion, direct, and all expenses incident to ascertaining such values shall be paid by the owners of said patented lands, and such owners shall, before any exchange is effective, furnish the Secretary of the Interior evidence satisfactory to him of title to the patented lands offered in exchange, and if the value of the timber on park lands exceeds the value of the patented lands deeded to the Government in the exchange such excess shall be paid to the Secretary of the Interior by the owners of the patented lands before any of the timber is removed from the park, and shall be deposited and covered into the Treasury as miscellaneous receipts. The same course shall be
§ 5220. NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 33d)

pursued in relation to exchange for timber standing near public roads on patented lands for timber to be exchanged on park lands: Provided, That the lands conveyed to the Government under this Act shall become a part of the Yosemite National Park. (37 Stat. 80.)

§ 5220. (Act April 9, 1912, c. 74, § 3.) Regulations for cutting and removal of timber; bond for payment of damages.

All timber must be cut and removed from the park under regulations to be prescribed by the Secretary of the Interior, and any damage which may result to the roads or any part of the park in consequence of the cutting and removal of the timber from the reservation shall be borne by the owners of the patented lands, and bond satisfactory to the Secretary of the Interior must be given for the payment of such damages, if any, as shall be determined by the Secretary of the Interior. (37 Stat. 81.)

§ 5221. (Act April 9, 1912, c. 74, § 4.) Sale of matured, dead or down timber in park.

The Secretary of the Interior may also sell and permit the removal of such matured or dead or down timber as he may deem necessary or advisable for the protection or improvement of the park, and the proceeds derived therefrom shall be deposited and covered into the Treasury as miscellaneous receipts. (37 Stat. 81.)

§ 5222. (Act June 23, 1913, c. 3, § 1.) Lease of land in Yosemite National Park for hotel, etc.

The Secretary of the Interior is hereby authorized and empowered to grant a lease for the construction and maintenance of a substantial hotel and buildings in connection therewith in accordance with and under the provisions of the Act of June fourth, nineteen hundred and six (Thirty-fourth Statutes at Large, page two hundred and seven), relating to concessions in Yellowstone National Park, and the Act of March second, nineteen hundred and seven (Thirty-fourth Statutes at Large, page twelve hundred and nineteen) amendatory thereof, and any part of section two of the Act of October first, eighteen hundred and ninety, concerning the Yosemite National Park in conflict herewith is hereby repealed. (38 Stat. 49.)

This was a proviso annexed to an appropriation for protection, improvement, etc., of the park, in the sundry civil appropriation act for the fiscal year 1914, cited above.

Act June 4, 1906, c. 2570, and Act March 2, 1907, c. 2518, mentioned in this section, are set forth ante, §§ 5204, 5205.

Act Oct. 1, 1899, c. 1263, § 2, repealed in part by this section, is set forth ante, § 5210.

§ 5223. (Act March 2, 1899, c. 377, § 1.) Mount Rainier National Park; establishment; removal of trespassers.

All those certain tracts, pieces or parcels of land lying and being in the State of Washington, and within the boundaries particularly described as follows, to wit: Beginning at a point three
miles east of the northeast corner of township number seventeen north, of range six east of the Willamette meridian; thence south through the central parts of townships numbered seventeen, sixteen, and fifteen north, of range seven east of the Willamette meridian, eighteen miles more or less, subject to the proper easterly or westerly offsets, to a point three miles east of the northeast corner of township numbered fourteen north, of range six east of the Willamette meridian; thence east on the township line between townships numbered fourteen and fifteen north, eighteen miles more or less to a point three miles west of the northeast corner of township fourteen north, of range ten east of the Willamette meridian; thence northerly subject to the proper easterly or westerly offsets, eighteen miles more or less, to a point three miles west of the northeast corner of township numbered seventeen north, of range ten east of the Willamette meridian (but in locating said easterly boundary, wherever the summit of the Cascade Mountains is sharply and well defined, the said line shall follow the said summit, where the said summit line bears west of the easterly line as herein determined); thence westerly along the township line between said townships numbered seventeen and eighteen to the place of beginning, the same being a portion of the lands which were reserved from entry or settlement and set aside as a public reservation by proclamation of the President on the twentieth day of February, in the year of our Lord eighteen hundred and ninety-three, and of the Independence of the United States the one hundred and seventeenth, are hereby dedicated and set apart as a public park, to be known and designated as the Mount Rainier National Park, for the benefit and enjoyment of the people; and all persons who shall locate or settle upon or occupy the same, or any part thereof, except as hereafter provided, shall be considered trespassers and be removed therefrom. (30 Stat. 993.)

This section and the three sections next following were part of an act entitled "An act to set aside a portion of certain lands in the State of Washington, now known as the Pacific Forest Reserve, as a public park, to be known as the Mount Rainier National Park."

Section 4, of said act, provided for the issuance of patents conveying to the Northern Pacific Railroad Company the lands selected by it in lieu of lands within the park in accordance with the provisions of section 3 of the act. It is omitted as temporary merely, and executed.

§ 5224. (Act March 2, 1899, c. 377, § 2.) Park under control of Secretary of Interior; regulations; leases for erection of buildings; rights of way to park through Pacific Forest Reserve; protection of fish and game; removal of trespassers.

Said public park shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be to make and publish, as soon as practicable, such rules and regulations as he may deem necessary or proper for the care and management of the same. Such regulations shall provide for the preservation from injury or spoliation of all timber, mineral deposits, natural curiosities, or wonders within said park, and their retention in their natural con-
§ 5224 NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32b)

dition. The Secretary may, in his discretion, grant parcels of ground at such places in said park as shall require the erection of buildings for the accommodation of visitors; all of the proceeds of said leases, and all other revenues that may be derived from any source connected with said park, to be expended under his direction in the management of the same, and the construction of roads and bridle paths therein. And through the lands of the Pacific Forest Reserve adjoining said park rights of way are hereby granted, under such restrictions and regulations as the Secretary of the Interior may establish, to any railway or tramway company or companies, through the lands of said Pacific Forest Reserve, and also into said park hereby created, for the purpose of building, constructing, and operating a railway, constructing and operating a railway or tramway line or lines, through said lands, also into said park. He shall provide against the wanton destruction of the fish and game found within said park, and against their capture or destruction for the purposes of merchandise or profit. He shall also cause all persons trespassing upon the same after the passage of this Act to be removed therefrom, and generally shall be authorized to take all such measures as shall be necessary to fully carry out the objects and purposes of this Act. (30 Stat. 994.)

No expenditure for any building exceeding $1,000 was to be made in any national park without express authority of Congress, by Act Aug. 24, 1912, c. 396, post, § 6290.

§ 5225. (Act March 2, 1899, c. 377, § 3.) Grant of lands to Northern Pacific Railroad in lieu of lands relinquished; lieu lands to settlers.

Upon execution and filing with the Secretary of the Interior, by the Northern Pacific Railroad Company, of proper deed releasing and conveying to the United States the lands in the reservation hereby created, also the lands in the Pacific Forest Reserve which have been heretofore granted by the United States to said company, whether surveyed or unsurveyed, and which lie opposite said company's constructed road, said company is hereby authorized to select an equal quantity of nonmineral public lands, so classified as nonmineral at the time of actual Government survey, which has been or shall be made, of the United States not reserved and to which no adverse right or claim shall have attached or have been initiated at the time of the making of such selection, lying within any State into or through which the railroad of said Northern Pacific Railroad Company runs, to the extent of the lands so relinquished and released to the United States: Provided, That any settlers on lands in said national park may relinquish their rights thereto and take other public lands in lieu thereof, to the same extent and under the same limitations and conditions as are provided by law for forest reserves and national parks. (30 Stat. 994.)

See note to section 1 of this act, ante, § 5223.

(2196)

The mineral-land laws of the United States are hereby extended to the lands lying within the said reserve and said park. (30 Stat. 995.)

See note to section 1 of this act, ante, § 5223.

The location of mining claims, within the Mount Rainier National Park was prohibited by Act May 27, 1908, c. 200, § 1, post, § 5227.

§ 5227. (Act May 27, 1908, c. 200, § 1.) Mount Rainier National Park; location of mining claims within park prohibited.

Hereafter the location of mining claims under the mineral-land laws of the United States is prohibited within the area of the Mount Rainier National Park, in the State of Washington: Provided, however, That this provision shall not affect existing rights heretofore acquired in good faith under the mineral-land laws of the United States to any mining location or locations in said Mount Rainier National Park. (35 Stat. 365.)

This was a provision of the sundry civil appropriation act for the fiscal year 1908, cited above.

The mineral-land laws of the United States were extended to the Mount Rainier National Park and the Pacific National Forest by Act March 2, 1899, c. 377, § 5, ante, § 5226.

§ 5228. (Act May 22, 1902, c. 820, § 1.) Crater Lake National Park; establishment.

The tract of land bounded north by the parallel forty-three degrees four minutes north latitude, south by forty-two degrees forty-eight minutes north latitude, east by the meridian one hundred and twenty-two degrees west longitude, and west by the meridian one hundred and twenty-two degrees sixteen minutes west longitude, having an area of two hundred and forty-nine square miles, in the State of Oregon, and including Crater Lake, is hereby reserved and withdrawn from settlement, occupancy, or sale under the laws of the United States, and dedicated and set apart forever as a public park or pleasure ground for the benefit of the people of the United States, to be known as Crater Lake National Park. (32 Stat. 202.)

This section and the two sections next following were an act entitled "An act reserving from the public lands in the State of Oregon, as a public park for the benefit of the people of the United States, and for the protection and preservation of the game, fish, timber, and all other natural objects therein, a tract of land herein described, and so forth."

§ 5229. (Act May 22, 1902, c. 820, § 2.) Park under control of Secretary of the Interior; regulations.

The reservation established by this Act shall be under the control and custody of the Secretary of the Interior, whose duty it shall be to establish rules and regulations and cause adequate measures to be taken for the preservation of the natural objects within said park, and also for the protection of the timber from wanton depredation, the preservation of all kinds of game and fish, the punishment of
trespassers, the removal of unlawful occupants and intruders, and the prevention and extinguishment of forest fires. (32 Stat. 202.)

No expenditure for construction of any building exceeding $1,000 was to be made in any national park without express authority of Congress, by Act Aug. 24, 1912, c. 355, post, § 5250.

§ 5230. (Act May 22, 1902, c. 820, § 3.) Settlement, residence, lumbering, etc., within park, punishable; admission of visitors; location and working of mining claims; places of entertainment.

It shall be unlawful for any person to establish any settlement or residence within said reserve, or to engage in any lumbering, or other enterprise or business occupation therein, or to enter therein for any speculative purpose whatever, and any person violating the provisions of this Act, or the rules and regulations established thereunder, shall be punished by a fine of not more than five hundred dollars, or by imprisonment for not more than one year, and shall further be liable for all destruction of timber or other property of the United States in consequence of any such unlawful act: Provided, That said reservation shall be open, under such regulations as the Secretary of the Interior may prescribe, to all scientists, excursionists, and pleasure seekers and to the location of mining claims and the working of the same: And provided further, That restaurant and hotel keepers, upon application to the Secretary of the Interior, may be permitted by him to establish places of entertainment within the Crater Lake National Park for the accommodation of visitors, at places and under regulations fixed by the Secretary of the Interior, and not otherwise. (32 Stat. 203.)

§ 5231. (Act Jan. 9, 1903, c. 63, § 1.) Wind Cave National Park; establishment.

There are hereby reserved from settlement, entry, sale, or other disposal, and set apart as a public park, all those certain tracts, pieces, or parcels of land lying and being situate in the State of South Dakota and within the boundaries particularly described as follows: Beginning at the southeast corner of section thirteen, township six south, range five east, Black Hills meridian, South Dakota; thence westerly to the southwest corner of the southeast quarter of section sixteen, said township; thence northerly along the quarter-section lines to the northwest corner of the northeast quarter of section four, said township; thence easterly to the southwest corner of section thirty-four, township five south, range five east; thence northerly to the northwest corner of said section; thence easterly to the northeast corner of section thirty-one, township five south, range six east; thence southerly along the section lines to the southeast corner of section seven, township six south, range six east; thence westerly to the southwest corner of said section; thence southerly to the southeast corner of section thirteen, township six south, range five east, the place of beginning: Provided, That nothing herein contained shall be construed to affect any valid

(2198)
rights acquired in connection with any of the lands embraced within the limits of said park. (32 Stat. 765.)

This section and the five sections next following were an act entitled "An act to set apart certain lands in the State of South Dakota as a public park, to be known as the Wind Cave National Park."

§ 5232. (Act Jan. 9, 1903, c. 63, § 2.) Park under control of Secretary of the Interior; regulations.

Said park shall be known as the Wind Cave National Park and shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be to prescribe such rules and regulations and establish such service as he may deem necessary for the care and management of the same. (32 Stat. 765.)

No expenditure for the construction of any building exceeding $1,000 was to be made in any national park without express authority of Congress, by Act Aug. 24, 1912, c. 385, post, § 5230.

§ 5233. (Act Jan. 9, 1903, c. 63, § 3.) Leases of cavern and lands within park.

That the Secretary of the Interior be, and is hereby, authorized, in the exercise of his discretion, to rent or lease, under rules and regulations to be made by him, the cavern underlying the above-described lands, and also pieces and parcels of ground within said park for the erection of such buildings as may be required for the accommodation of visitors. (32 Stat. 765.)

§ 5234. (Act Jan. 9, 1903, c. 63, § 4.) Use of funds arising from rentals or leases.

All funds arising from such rentals or leases shall be covered into the Treasury of the United States as a special fund to be expended in the care and improvement of said park. (32 Stat. 765.)

§ 5235. (Act Jan. 9, 1903, c. 63, § 5.) Relinquishment by settlers or owners of tracts within park in exchange for other land.

In cases in which a tract covered by an unperfected bona fide claim or by a patent is included within the limits of this park, the settler or owner thereof may, if he desires to do so, relinquish the tract to the Government and secure other land, outside of the park, in accordance with the provisions of the law relating to the subject of such relinquishment of lands in forest reserves in the State of South Dakota. (32 Stat. 766.)

§ 5236. (Act Jan. 9, 1903, c. 63, § 6.) Unlawful intrusion upon park, or unauthorized injury to property, or violation of regulations, punishable.

All persons who shall unlawfully intrude upon said park, or who shall without permission appropriate any object therein or commit unauthorized injury or waste in any form whatever upon the lands or other public property therein, or who shall violate any of the rules and regulations prescribed hereunder, shall upon conviction be fined in a sum not more than one thousand dollars or be imprisoned for a period not more than twelve months, or shall suffer both fine and imprisonment, in the discretion of the court. (32 Stat. 766.)

(2199)
§ 5237. (Act June 29, 1906, c. 3607, § 1.) Mesa Verde National Park; establishment.

There is hereby reserved from settlement, entry, sale, or other disposal, and set apart as a public reservation, all those certain tracts, pieces, and parcels of land lying and being situate in the State of Colorado, and within the boundaries particularly described as follows:

* * *(34 Stat. 616.)

This was a part of section 1 of an act creating the Mesa Verde National Park, cited above.

Sections 2-4 of said act are set forth post, §§ 5239-5241.

The portion of this section omitted here, which described the boundaries of said park, was superseded by the extension of the park on the south and the description of the boundaries as thus changed, by Act June 30, 1913, c. 4, § 1, post, § 5288.

§ 5238. (Act June 30, 1913, c. 4, § 1.) Boundaries of Mesa Verde National Park extended.

The boundary of the Mesa Verde National Park, created by the Act of Congress approved June twenty-ninth, nineteen hundred and six (Thirty-fourth Statutes at Large, page six hundred and sixteen), is hereby extended on the south so as to include the land relinquished by the Indians in the foregoing agreement as herein provided and the boundaries of said park shall hereafter be defined as follows:

Beginning at a point on the north boundary of the Southern Ute Indian Reservation in southwestern Colorado where the north quarter corner of unsurveyed fractional section two (2), township thirty-four (34) north, range fifteen (15) west, "south of the Ute boundary," intersects the same; thence south to the south quarter corner of unsurveyed section twenty-six (26), said township; thence west to the southwest corner of unsurveyed section twenty-five (25), township thirty-four (34) north, range sixteen (16) west; thence north to the northwest corner of unsurveyed fractional section one (1), said township and range; thence west to the southeast corner of fractional section twelve (12), township thirty-four (34) north, range sixteen (16) west, "north of the Ute boundary"; thence north to the northwest corner of section nineteen (19), township thirty-five (35) north, range fifteen (15) west; thence east to the southeast corner of the southeast quarter of section sixteen (16), said township; thence north to the northwest corner of the southeast quarter of said section; thence east to the southeast corner of the northeast quarter of section thirteen (13), said township; thence north to the northwest corner of the northeast quarter of said section; thence east to the southwest corner of section seven (7), township thirty-five (35) north, range fourteen (14) west; thence north to the northwest corner of said section; thence east to the southwest corner of section five (5), said township; thence north to the northwest corner of said section; thence east to the northeast corner of said section; thence south to the southeast corner of the northeast quarter of said section; thence east to the northeast corner of the southwest quarter of section four (4), said township; thence south to the northwest corner of the southeast quarter of section sixteen (16), said township; thence east to the...
northeast corner of the southeast quarter of said section; thence south to the northwest corner of section twenty-two (22), said township; thence east to the northeast corner of said section; thence south to the northwest corner of section twenty-six (26), said township; thence east along the north section line of section twenty-six (26) to the east bank of the Río Mancos; thence in a southeasterly direction along the east bank of the Río Mancos to its intersection with the northern boundary line of the Southern Ute Indian Reservation; thence west along said Indian reservation boundary to its intersection with the range line between ranges fourteen (14) and fifteen (15) west, the place of beginning;

And the provisions of the Act of June twenty-ninth, eighteen hundred and ninety-six, creating the park, are hereby extended over the same. (38 Stat. 83.)

These were provisions of the Indian appropriation act for the fiscal year 1914, cited above.

The agreement, mentioned in this section, whereby the lands hereby included within the park were relinquished by the Indians, was an amendment to an agreement made with the Wimincune Band of Southern Ute Indians, dated May 10, 1911, which amended agreement was incorporated in and ratified by the said Indian appropriation act for the fiscal year 1914, Act June 30, 1913, c. 4, § 1, 38 Stat. 82.

Act June 29, 1906, c. 3607, mentioned in this section is set forth ante, § 5237, and post, §§ 5239-5241.

§ 5239. (Act June 29, 1906, c. 3607, § 2.) Park under control of Secretary of the Interior; regulations; prehistoric ruins near park.

Said public park shall be known as the Mesa Verde National Park, and shall be under the exclusive control of the Secretary of the Interior, whose duty it shall be to prescribe such rules and regulations and establish such service as he may deem necessary for the care and management of the same. Such regulations shall provide specifically for the preservation from injury or spoliation of the ruins and other works and relics of prehistoric or primitive man within said park. (34 Stat. 617.)

See notes to section 1 of this act, ante, § 5237.

A proviso following the portion of this section set forth here, which placed all prehistoric ruins situated within five miles of the boundaries of the park on Indian lands and not on lands alienated by patent from the ownership of the United States under the custodianship of the Secretary of the Interior, to be administered by the same service that was established for the custodianship of the park, was repealed by a provision of the Indian appropriation act for the fiscal year 1914, Act June 30, 1913, c. 4, § 1, 38 Stat. 84.

An appropriation for protection and improvement of the park, including the lands within five miles of the boundaries, to be administered by the same service under this act, is made in the subsequent sundry civil appropriation acts. The provision for the fiscal year 1914 was by Act June 28, 1913, c. 3, § 1, 38 Stat. 59.

Leases and permits for the use of the land in the park or development of the resources thereof were authorized by a provision of Act June 25, 1910, c. 385, post, § 5242.

No expenditure for any building exceeding $1,000 was to be made in any National park without express authority of Congress, by Act Aug. 24, 1912, c. 385, post, § 5250.

(2201)
§ 5240. (Act June 29, 1906, c. 3607, § 3.) Examinations, excavations, and gathering of objects of interest within park.
That the Secretary of the Interior be, and he is hereby, authorized to permit examinations, excavations, and other gathering of objects of interest within said park by any person or persons whom he may deem properly qualified to conduct such examinations, excavations, or gatherings, subject to such rules and regulations as he may prescribe: Provided always, That the examinations, excavations, and gatherings are undertaken only for the benefit of some reputable museum, university, college, or other recognized scientific or educational institution, with a view to increasing the knowledge of such objects and aiding the general advancement of archaeological science. (34 Stat. 617.)
See notes to section 1 of this act, ante, § 5237.

§ 5241. (Act June 29, 1906, c. 3607, § 4.) Removal, disturbance, destruction, etc., of ruins, mounds, buildings, graves, relics, etc., in park, punishable; penalty.
Any person or persons who may otherwise in any manner willfully remove, disturb, destroy, or molest any of the ruins, mounds, buildings, graves, relics, or other evidences of an ancient civilization or other property from said park shall be deemed guilty of a misdemeanor, and upon conviction before any court having jurisdiction of such offenses shall be fined not more than one thousand dollars or imprisoned not more than twelve months, or such person or persons may be fined and imprisoned, at the discretion of the judge, and shall be required to restore the property disturbed, if possible. (34 Stat. 617.)
See notes to section 1 of this act, ante, § 5237.

§ 5242. (Act June 25, 1910, c. 385.) Mesa Verde National Park; leases and permits for use of land, etc.; prehistoric ruins not to be included.
The Secretary of the Interior may, upon terms and conditions to be fixed by him, grant leases and permits for the use of the land or development of the resources thereof, in the Mesa Verde National Park, and the funds derived therefrom shall be covered into the Treasury of the United States: Provided, That such leases or grants shall not include any of the prehistoric ruins in said park or exclude the public from free or convenient access thereto. (36 Stat. 796.)
This was a provision of the deficiency appropriation act for the fiscal year 1910, cited above.

§ 5243. (Act July 1, 1902, c. 1362, § 64.) Cession of sulphur springs and adjacent lands to United States; limit of acreage; payment for lands and improvements; regulations; sale, etc., of intoxicants prohibited; United States not committed to expenditures for improvements.
The two tribes hereby absolutely and unqualifiedly relinquish, cede,
and convey unto the United States a tract or tracts of land at and in
the vicinity of the village of Sulphur, in the Chickasaw Nation, of
not exceeding six hundred and forty acres, to be selected, under the
direction of the Secretary of the Interior, within four months after
the final ratification of this agreement, and to embrace all the natural
springs in and about said village, and so much of Sulphur Creek, Rock
Creek, Buckhorn Creek, and the lands adjacent to said natural springs
and creeks as may be deemed necessary by the Secretary of the In-
terior for the proper utilization and control of said springs and the
waters of said creeks, which lands shall be so selected as to cause
the least interference with the contemplated town site at that place
consistent with the purposes for which said cession is made, and when
selected the ceded lands shall be held, owned, and controlled by the
United States absolutely and without any restriction, save that no
part thereof shall be platted or disposed of for town-site purposes
during the existence of the two tribal governments. Such other lands
as may be embraced in a town site at that point shall be disposed of
in the manner provided in the Atoka agreement for the disposition
of town sites. Within ninety days after the selection of the lands
so ceded there shall be deposited in the Treasury of the United States,
to the credit of the two tribes, from the unappropriated public mon-
eds of the United States, twenty dollars per acre for each acre so
selected, which shall be in full compensation for the lands so ceded,
and such moneys shall, upon the dissolution of the tribal governments,
be divided per capita among the members of the tribes, freedmen ex-
cepted, as are other funds of the tribes. All improvements upon the
lands so selected which were lawfully there at the time of the ratifica-
tion of this agreement by Congress shall be appraised, under the di-
rection of the Secretary of the Interior, at the true value thereof
at the time of the selection of said lands, and shall be paid for by
warrants drawn by the Secretary of the Interior upon the Treasurer
of the United States. Until otherwise provided by law, the Secretary
of the Interior may, under rules prescribed for that purpose, regulate
and control the use of the water of said springs and creeks and the
temporary use and occupation of the lands so ceded. No person shall
occupy any portion of the lands so ceded, or carry on any business
thereon, except as provided in said rules, and until otherwise provided
by Congress the laws of the United States relating to the introduc-
tion, possession, sale, and giving away of liquors or intoxicants of
any kind within the Indian country or Indian reservations shall be
applicable to the lands so ceded, and said lands shall remain within
the jurisdiction of the United States court for the southern district
of Indian Territory: Provided, however, That nothing contained in
this section shall be construed or held to commit the Government of
the United States to any expenditure of money upon said lands or
the improvements thereof, except as provided herein, it being the
intention of this provision that in the future the lands and improve-
ments herein mentioned shall be conveyed by the United States to
§ 5243 NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32b)

such Territorial or State organization as may exist at the time when such conveyance is made. (32 Stat. 655.)

This section was part of an agreement between the United States and the Choctaw and Chickasaw tribes of Indians, ratified by and included in Act July 1, 1902, c. 1362, cited above.

The Atoka agreement, mentioned in this section, was a former agreement, with the same two tribes, ratified by and included in Act June 28, 1898, c. 617, 30 Stat. 496.

Other adjacent lands were withdrawn, and made a part of this reservation by Act April 21, 1904, c. 1402, § 18, post, § 5244.

A provision that this Sulphur Springs Reservation should be named and thereafter called the Platt National Park was made by Res. June 20, 1908, No. 42, post, § 5246.

§ 5244. (Act April 21, 1904, c. 1402, § 18.) Additional land withdrawn for Sulphur Springs Reservation; payment for lands and improvements; management and control; enforcement of regulations; sale of improvements; penalty for violation of rules and regulations; appraisement and purchase of town lots.

The Secretary of the Interior is hereby authorized and directed to withhold from sale or other disposition the irregular tract of land containing seventy-eight and sixty-eight one-hundredths acres, more or less, lying in the northwest quarter of section two and the northeast quarter of section three, township one south, range three east, and being within the exterior boundaries of the proposed town site of Sulphur, in the Chickasaw Nation, Indian Territory, and excluded from said town site by order of the Secretary of the Interior, of October twentieth, nineteen hundred and three, and also to withdraw and withhold from disposition the tract of land within the exterior boundaries of said proposed town site, lying south of and adjacent to the tract above mentioned, containing in the aggregate one hundred and thirty-eight acres, more or less, and mentioned in the report of Gerard H. Matthes, of December twenty-seventh, nineteen hundred and three, to F. H. Newell, Chief Engineer United States Geological Survey, and shown upon the map accompanying said report by a yellow line.

The land hereby reserved shall be paid for by the United States at the rate of sixty dollars per acre and in the same manner as the land acquired in accordance with paragraph sixty-four of the Act of Congress approved July first, nineteen hundred and two, entitled “An Act to ratify and confirm an agreement with the Choctaw and Chickasaw tribes of Indians, and for other purposes,” and such money as may be necessary to carry out this provision is hereby appropriated, from any money in the United States Treasury not otherwise appropriated, and made immediately available.

All improvements upon said land, at the passage of this Act, shall be appraised and paid for as provided in said paragraph sixty-four of the Act of July first, nineteen hundred and two.

The land hereby reserved shall, immediately upon payment therefor by the United States, be and become a part of the reservation here-

(2204)
tofore established at the said village of Sulphur, and shall be subject
to all the provisions of said section sixty-four of the Act of July first,
nineteen hundred and two, respecting the care, control, direction, use,
and occupancy thereof as if they had been included in the original
segregation: Provided, That the Secretary of the Interior is hereby
authorized, in the absence of other provisions for the care and man-
agement thereof, to designate an officer or employee of his Depart-
ment to take charge of the land, whether acquired under said section
sixty-four of the Act of July first, nineteen hundred and two, or un-
der this Act, and to enforce rules and regulations for the control and
use thereof, and of the waters of the springs and creeks within the
reservation: Provided further, That the Secretary of the Interior is
hereby authorized, in his discretion, to sell or dispose of any build-
ings upon the land hereby reserved and upon the land originally re-
served, and all money received from such sales, as well as all money
heretofore received or that may hereafter be realized for the use of
said waters or for the use and occupancy of the land or the build-
ings thereon, through leases, permits, or otherwise, may be expended
under the direction of the Secretary of the Interior for the care and
management of said lands and the preservation of the improvements
thereon: And provided further, That if any person, firm, or cor-
poration shall willfully violate any of the rules and regulations pre-
scribed by the Secretary of the Interior relative to the use of the
waters of said springs and creeks and the use and occupation of the
lands in said reservation, such person, firm, corporation, or members
or agents thereof, shall be deemed guilty of a misdemeanor, and upon
conviction shall be fined not less than five dollars and not more than
one hundred dollars, and may be imprisoned for a term of not more
than six months for each offense.

The Secretary of the Interior is hereby directed to appraise, at
actual value at the time of such appraisement, all town lots held by
citizens of the United States within the limits of the tract of land
ceded to the United States by the Choctaw and Chickasaw nations,
at or near Sulphur Springs, in the Chickasaw Nation, Indian Territ-
ory, and pay for the same to such lot holders severally, or to their
legal representatives, the appraised value of such lots by warrants
drawn by the Secretary of the Interior upon the Treasurer of the
United States; and the amount necessary to pay the same is hereby
appropriated from any money in the Treasury not otherwise appro-
priated. The foregoing appraisal of lots shall be completed within
three months from the passage of this Act. (33 Stat. 220.)

This section was part of the Indian appropriation act for the fiscal year
1906, cited above.

Act July 1, 1902, c. 1362, § 64, mentioned in this act, is set forth ante, §
5243.

This Sulphur Springs reservation was to be named and thereafter called

No expenditure for any building exceeding $1,000 was to be made in any na-
(2205)
§ 5245. NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32b)


§ 5245. (Act June 16, 1906, c. 3335, § 7.) Acts relating to Sulphur Springs Reservation, and lands set aside as national park, etc., not affected by act for admission to the Union of the State of Oklahoma; rights and jurisdiction of United States in and over lands so set aside; State not entitled to select indemnity school lands for sections within park, etc., or other reservation, etc.

Nothing in this Act contained shall repeal or affect any Act of Congress relating to the Sulphur Springs Reservation as now defined or as may be hereafter defined or extended, or the power of the United States over it or any other lands embraced in the State hereafter set aside by Congress as a national park, game preserve, or for the preservation of objects of archaeological or ethnological interest; and nothing contained in this Act shall interfere with the rights and ownership of the United States in any land hereafter set aside by Congress as national park, game preserve, or other reservation, or in the said Sulphur Springs Reservation, as it now is or may be hereafter defined or extended by law; but exclusive legislation, in all cases whatsoever, shall be exercised by the United States, which shall have exclusive control and jurisdiction over the same; but nothing in this proviso contained shall be construed to prevent the service within said Sulphur Springs Reservation or national parks, game preserves, and other reservations hereafter established by law, of civil and criminal processes lawfully issued by the authority of said State, and said State shall not be entitled to select indemnity school lands for the thirteenth, sixteenth, thirty-third, and thirty-sixth sections that may be embraced within the metes and bounds of the national park, game preserve, and other reservation or the said Sulphur Springs Reservation, as now defined or may be hereafter defined. (34 Stat. 272.)

This was a proviso annexed to section 7 of the enabling act for the formation of a State government for and the admission to the Union of the State of Oklahoma, cited above.


That the Secretary of the Interior be, and he is hereby, authorized and directed to change the name of the Sulphur Springs Reservation, an Indian reservation now in the State of Oklahoma, formerly in the Indian Territory, so that said Reservation shall be named and hereafter called the "Platt National Park," in honor of Orville Hitchcock Platt, late and for twenty-six years a Senator from the State of Connecticut and for many years a member of the Committee on Indian Affairs, in recognition of his distinguished services to the Indians and to the country. (34 Stat. 837.)

This was a resolution entitled "Joint Resolution directing that the Sulphur Springs Reservation be named and hereafter called the 'Platt National Park.' " (2206)
§ 5247. (Act May 11, 1910, c. 226, § 1.) Glacier National Park; establishment; removal of trespassers; claims, etc., and rights under land laws not affected; rights of way for railways; reclamation projects; indemnity selections of lands not to be allowed to railroad, etc., corporations for loss of lands within park.

The tract of land in the State of Montana particularly described by metes and bounds as follows, to wit: Commencing at a point on the international boundary between the United States and the Dominion of Canada at the middle of the Flathead River; thence following southerly along and with the middle of the Flathead River to its confluence with the Middle Fork of the Flathead River; thence following the north bank of said Middle Fork of the Flathead River to where it is crossed by the north boundary of the right of way of the Great Northern Railroad; thence following the said right of way to where it intersects the west boundary of the Blackfeet Indian Reservation; thence northerly along said west boundary to its intersection with the international boundary; thence along said international boundary to the place of beginning, is hereby reserved and withdrawn from settlement, occupancy, or disposal under the laws of the United States, and dedicated and set apart as a public park or pleasure ground for the benefit and enjoyment of the people of the United States under the name of "The Glacier National Park;" and all persons who shall locate or settle upon or occupy the same, or any part thereof, except as hereinafter provided, shall be considered trespassers and removed therefrom: Provided, That nothing herein contained shall affect any valid existing claim, location, or entry under the land laws of the United States or the rights of any such claimant, locator, or entryman to the full use and enjoyment of his land: Provided further, That rights of way through the valleys of the North and Middle forks of the Flathead River for steam or electric railways may be acquired within said Glacier National Park under filings or proceedings heretofore or hereafter made or instituted under the laws applicable to the acquisition of such rights over or upon the unappropriated public domain of the United States, and that the United States Reclamation Service may enter upon and utilize for flowage or other purposes any area within said park which may be necessary for the development and maintenance of a government reclamation project: And provided further, That no lands within the limits of said park hereby created belonging to or claimed by any railroad or other corporation now having or claiming the right of indemnity selection by virtue of any law or contract whatsoever shall be used as a basis for indemnity selection in any State or Territory whatsoever for any loss sustained by reason of the creation of said park. (36 Stat. 354.)

This section and the section next following were an act entitled "An act to establish 'The Glacier National Park' in the Rocky Mountains south of the International boundary line, in the State of Montana, and for other purposes." (2207)
§ 5248. (Act May 11, 1910, c. 226, § 2.) Park under control of
Secretary of Interior; regulations; leases for erection of build-
ings; sale and removal of matured or dead and down timber.
Said park shall be under the exclusive control of the Secretary
of the Interior, whose duty it shall be, as soon as practicable, to
make and publish such rules and regulations not inconsistent with
the laws of the United States as he may deem necessary or proper
for the care, protection, management, and improvement of the
same, which regulations shall provide for the preservation of the park
in a state of nature so far as is consistent with the purposes of this
Act, and for the care and protection of the fish and game within
the boundaries thereof. Said Secretary may, in his discretion, execute
leases to parcels of ground not exceeding ten acres in extent at any
one place to any one person or company, for not to exceed twenty
years, when such ground is necessary for the erection of buildings
for the accommodation of visitors, and to parcels of ground not ex-
ceeding one acre in extent and for not to exceed twenty years to
persons who have hitherto erected or whom he may hereafter au-
thorize to erect summer homes or cottages; he may also sell and per-
mit the removal of such matured, or dead or down timber as he may
deem necessary or advisable for the protection or improvement of
the park. (36 Stat. 354.)

The proceeds of leases and other revenues from sources connected with the
park were to be expended in the administration and improvement thereof, by a
provision of Act March 4, 1911, c. 285, § 1, post, § 5249.

§ 5249. (Act March 4, 1911, c. 285, § 1.) Glacier National Park;
proceeds of leases and other revenues to be expended in admin-
istration and improvement of park.

Glacier National Park, Montana: * * * All proceeds of leases and
other revenues that may be derived from any source connected with
said park shall be expended under the direction of the Secretary of
the Interior in the administration and improvement of the park, and
the construction of roads, trails, bridges, and so forth, therein. (36
Stat. 1421.)

This was a provision accompanying an appropriation for administration and
improvement of the park, in the sundry civil appropriation act for the fiscal
year 1912, cited above.

No expenditure for the construction of any building exceeding $1,000 was to
be made in any national park without express authority of Congress, by Act
Aug. 24, 1912, c. 355, post, § 5250.

§ 5250. (Act Aug. 24, 1912, c. 355.) Limit on cost of buildings
to be erected in the future in national parks.

No expenditure for construction of administration or other build-

ings cost in case of any building exceeding one thousand dollars shall
hereafter be made in any national park except under express au-
thority of Congress: Provided, That this shall not apply to buildings
now in the process of actual construction. (37 Stat. 460.)

This was a provision of the sundry civil appropriation act for the fiscal
year 1913, cited above.

(2208)
§ 5251. (Act Dec. 16, 1878, c. 5, as amended, Act April 12, 1904, c. 1249.) Hot Springs reservation; establishment; leases of ground, bath houses, and supply of water; dedication of Hot Springs, with reservation and mountain, to United States, forever free from sale or alienation.

The Secretary of the Interior is hereby directed to lease to the present proprietors of the Arlington Hotel or their assigns the grounds, not exceeding one acre, now occupied by them, for a period of ten years, unless otherwise provided by law, at an annual rental of one thousand dollars. And he is further directed to lease the bath houses of a permanent nature now upon the Hot Springs reservation to the owners of the same, and lease to any person or persons upon such terms as may be agreed on, sites for the building of other bath houses for the term of five years, unless otherwise provided by law, under such rules and regulations as he may prescribe; and the tax imposed shall not exceed fifteen dollars per tub per annum, including land rent: Provided, That said leases shall in no way prejudice any legal right that any person or persons may have acquired under the act hereby revived and continued, to any improvements on said ground: And provided further, That the Secretary of the Interior be, and he is hereby, authorized to grant to hotels having bath houses attached, and to bath houses situated on the Hot Springs Reservation, as well as in the city of Hot Springs, Arkansas, the right to install, maintain, and use, either in said bath houses or in connection with the rooms of said hotels or the bath houses attached to said hotels, as many bath tubs as in his discretion he may deem proper and necessary for the public service and the amount of hot water will justify. And provided further, That the superintendent shall provide and maintain a sufficient number of free baths for the use of the indigent, and the expense thereof shall be defrayed out of the rentals hereinbefore provided for.

In cases where fractions of lots are made by straightening, widening or laying out streets, the commissioners shall have power to determine the disposal of the same, giving the preference to the owners of abutting lots: Provided, That all titles given or to be given by the United States shall explicitly exclude the right to the purchaser of the land, his heirs or assigns, from ever boring thereon for hot water; and the Hot Springs, with the reservation and mountain are hereby dedicated to the United States, and shall remain forever free from sale or alienation. (20 Stat. 258. 33 Stat. 173.)

This section, as originally enacted, constituted an act entitled "An act to correct an error of enrollment in bill making appropriations for sundry civil expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and seventy-nine, and for other purposes."

The sundry civil appropriation act for the fiscal year 1879, Act June 20, 1878, c. 359, § 1, 20 Stat. 220, mentioned in the title of this act, contained a provision in the same words as that of this act for the lease of bath houses of a permanent nature, followed by the words, "Provided, That;" the substance of the proviso being omitted.

The second proviso of this act, as originally enacted, which limited the supply of water to not more than enough for 40 bath tubs of the usual size to a single establishment, was stricken out, and in lieu thereof the second pro-

(Comp. St. 13–139) (2209)
§ 5251. NATIONAL PARKS, RESERVATIONS, AND MONUMENTS (Tit. 32B

visor set forth here was inserted, by Act April 12, 1904, c. 1249, last cited above.

The portion of this act preceding the provisions set forth here made an appropriation for the expenses of the Hot Springs Commission, and provided for the appointment of a board of commissioners, conferring upon them the powers of the commissioners appointed under the previous Act March 3, 1877, c. 105, 19 Stat. 377, to lay out, etc., the Hot Springs Reservation, and revived and continued in force said preceding act, to enable the commissioners to perform the acts and duties authorized by it. These and other earlier provisions relating to the establishment and management of the reservation were temporary merely and have been executed.

The provisions of this act relating to leases of ground, bath houses, etc., were also in part temporary in nature, and appear to be superseded to a great extent, by those of Act March 3, 1891, c. 533, post, §§ 5252–5253; but this act was recognized by the subsequent amendment by Act April 12, 1904, c. 1240, mentioned above.

The cession by the State of Arkansas to the United States of exclusive jurisdiction over a part of the permanent Hot Springs Reservation was accepted, and the prosecution and punishment of offenses committed therein were provided for, by Act April 20, 1904, c. 1400, post, §§ 5261–5273.

The boundary line of the Hot Springs Reservation was changed, and a tract of land excluded thereby was ceded to the city of Hot Springs for street purposes, by Act May 23, 1906, c. 2552, 34 Stat. 195.

Certain lots situate on the Hot Springs Reservation were granted to the school district of Hot Springs by Act April 30, 1908, c. 154, § 1, 35 Stat. 98.

§ 5252. (Act March 3, 1891, c. 533, § 1.) Hot Springs Reservation; leases of bath houses and bath house sites; supply of water.

The Secretary of the Interior is hereby authorized and empowered to execute leases to the bath-houses and bath-house sites on the permanent reservation at Hot Springs, Arkansas, for periods not exceeding twenty years, and at an annual rental of not less than thirty dollars per tub for each tub used in any bath-house. Said annual rental shall be payable quarterly in advance, at the office of the Government Superintendent of said property, in Hot Springs, Arkansas. Provided, That the same rate for water rent shall be charged for the water to all parties receiving the same, whether on or off the permanent reservation: Provided, That after the Army and Navy hospital bath-house, the public bath-house, the bath-houses which are now or may hereafter be authorized on the permanent reservation, the Arlington Hotel, and the bath-houses off the permanent reservation now authorized to be supplied with hot water, in the order herein named, if there shall still be a surplus of hot water the Secretary of the Interior may, in his discretion and under such regulations as he may prescribe, cause hot water to be furnished to bath-houses, hotels, and families off the permanent reservation: Provided, That such bath-houses, hotels, and families shall cause all connections for obtaining such hot water to be made at their own expense: Provided, That all water furnished to any hotel or family for other use than bathing shall be paid for at such reasonable price, as shall be fixed by the Secretary of the Interior: Provided further, That the Secretary of the Interior shall at the expiration of each period of five years during the continuance of each lease made hereunder readjust the terms and amounts of

(2210)
payment provided for therein as may be just, but not less than the minimum herein provided. (26 Stat. 842.)

This was the first section of an act entitled "An act to regulate the granting of leases at Hot Springs, Arkansas, and for other purposes."

Section 2 of said act authorized the leasing of the Arlington Hotel site, on said reservation, for a term of 20 years. That lease has expired, and subsequent provisions for leasing the same property were made by Act Aug. 24, 1912, c. 355, post, § 5250.

Sections 3-8 of this act are set forth post, §§ 5253-5258.

Previous provisions relating to the subjects of this and other sections of this act, made by Act Dec. 16, 1878, c. 5, are set forth ante, § 5251. An amendment incorporated therein, as stated in the note under that act, affecting the limitation thereby of the supply of water, was made subsequent to this act.

§ 5253. (Act March 3, 1891, c. 533, § 3.) Rules and regulations as to leases, privileges, supply and use of water, buildings, etc.

All power now possessed by the Secretary of the Interior for the regulating of leases of bath-houses, bath-house privileges, or hotel rights on the reservation, or as to supplying hot water to places off the reservation, is hereby retained and continued in him; and full power is vested in the Secretary of the Interior to provide, in all leases to be executed against any combination among lessees or their assignors, as to ownership, prices, or accommodations at any bath-house; full power is also vested in him to make all needful rules and regulations as to the use of the hot water, and to prevent its waste, including full power to authorize the superintendent of the reservation to make examination and inspection at any time of the manner of using the hot water at any bath-tub, that it may be used in proper quantity only, and to prevent its waste; and also full power to provide and fix reasonable maximum charges for all baths, or bathing privileges, or services of any person connected with any bath-house furnished to bathers; and for reasonable maximum charges to guests at the Arlington Hotel; and also, generally, the Secretary of the Interior may make all necessary rules and regulations as to said bath-houses and the service therein as shall be deemed best for the public interest, and to provide penalties for the violation of any regulation which may be enforced as though provided by act of Congress. All leases and grants of hot-water privileges shall be held to be subject to all regulations now in force or which may be hereafter adopted by the Secretary of the Interior, and for any violation of any regulation, known to the proprietor at the time of the offense, the lease or grant may be canceled by the Secretary of the Interior. It shall be expressly provided in all leases and grants of privilege for hot water that the bath-house for which provision is made shall not be owned or controlled by any person, company, or corporation which may be the owner of or interested (as stockholder or otherwise) in any other bath-house on or near the Hot Springs Reservation; that neither the hot-water privilege granted nor any interest therein, nor the right to operate or control said bath-house, shall be assigned or transferred by the party of the second part without the approval of the Secretary of the Interior first obtained, in writing; and if the ownership or control of said bath-house be transferred to any person, company, or corporation owning or interested in any other bath-house on or near said reservation, the Secretary of the In-
§ 5254. (Act March 3, 1891, c. 533, § 4.) Investigation as to interest of applicant for lease, etc., in other bath house; refusal or forfeiture of lease or privilege where parties are otherwise interested.

The Secretary of the Interior, before executing any lease to bath-houses or bath-house sites on the permanent reservation or contracts for the use of hot water for bath-houses off the permanent reservation, may make due investigation to ascertain whether the person, persons, or corporation applying for such lease or contract are not, directly or indirectly, interested in any manner whatever in any other bath-house lease, interest, or privilege at or near Hot Springs, Arkansas, or whether he or they belong to any pool, combination, or association so interested, or whether he or they are members or stockholders in any corporation so interested, or, if a corporation, whether its members or any of them are members or stockholders of any other corporation or association interested in any other bath-house, lease, interest, or privilege as aforesaid, and in order to arrive at the facts in any such case he is authorized to send for persons and papers, administer oaths to witnesses, and require affidavits from applicants; and any such person making a false oath or affidavit in the premises shall be deemed guilty of perjury, and, upon conviction, subject to all the pains and penalties of perjury under the statutes of the United States; and whenever, either at the time of leasing or other time it appears to the satisfaction of the said Secretary that such interest in other bath-house, lease, interest, or privilege exists, or at any time any pool or combination exists between any two or more bath-houses or he deems it for the best interests of the management of the Hot Springs Reservation and waters, or for the public interest he may refuse such lease, license, permit or other privilege, or forfeit any lease or privilege wherein the parties interested have become otherwise interested as aforesaid. (26 Stat. 843.)

This act is not to be so construed as to prevent the operation of a bath house in connection with a hotel as part thereof, by section 8 of the act, post, § 5258.

§ 5255. (Act March 3, 1891, c. 533, § 5.) Taxation, under laws of State, of private property on reservation.

The consent of the United States is hereby given for the taxation, under the authority of the laws of the State of Arkansas applicable to the equal taxation of personal property in that State, as personal property of all structures and other property in private ownership on the Hot Springs Reservation. (26 Stat. 844.)

§ 5256. (Act March 3, 1891, c. 533, § 6.) Collection of water on reservation.

The authority heretofore conferred upon the Secretary of the In-
terior to collect the hot water upon said reservation shall be so construed as to require water to be collected only where such collection is necessary for its proper distribution, and not where by gravity the same can be properly utilized. (26 Stat. 844.)

§ 5257. (Act March 3, 1891, c. 533, § 7.) Sale of lots not permanently reserved.

The Secretary of the Interior may direct the public sale of all unsold Government lots on the Hot Springs Reservation, and not now permanently reserved at the city of Hot Springs, after having had the same reappraised, and also advertised as now required by law, and no lot shall be sold at less than the appraised price. (26 Stat. 844.)

§ 5258. (Act March 3, 1891, c. 533, § 8.) Act not to be construed to prevent operation of bath house in connection with hotel.

Nothing in this act shall be so construed as to prevent the stockholders of any Hotel from operating a bath-house in connection with such Hotel as a part thereof. (26 Stat. 844.)

See notes to section 1 of this act, ante, § 5252.

§ 5259. (Act Aug. 24, 1912, c. 355.) Hot Springs Reservation; lease of Arlington Hotel site; valuation of improvements.

The Secretary of the Interior is hereby authorized, to lease certain premises fronting on Central Avenue and on Fountain Street, now occupied by the buildings of the Arlington Hotel Company, at Hot Springs, Arkansas, on such terms and conditions as he may determine. No lease made hereunder shall be for a longer period than twenty years. In case said premises shall be leased to another lessee than the Arlington Hotel Company the provision of the lease ending March third, nineteen hundred and twelve, for a valuation of and payment for the improvements made by the Arlington Hotel Company shall be recognized by said Secretary; but he shall have the power to fix a time within which such valuation must be made, and if such valuation is not made within the time so fixed said Secretary may lease the premises free from all claim of said Arlington Hotel Company. (37 Stat. 459.)

This was a provision of the sundry civil appropriation act for the fiscal year 1913, cited above.

The lease, mentioned in the act as having expired was the lease executed under the authority conferred upon the Secretary of the Interior by Act March 3, 1891, c. 533, § 2, 26 Stat. 842.

§ 5260. (Act March 2, 1911, c. 200.) Hot Springs Reservation; use of free bathhouses limited to persons unable to pay for baths; oath required as to lack of means; making of false oath a misdemeanor; punishment.

Only persons who are without and unable to obtain the means to pay for baths and are suffering from ailments for which bathing in the water of the Hot Springs Reservation will afford relief or effect a cure shall be permitted to bathe at the free bathhouse on the public reservation at Hot Springs, Arkansas, and before any person shall be permitted to bathe at the free bathhouse

(2213)
on the reservation he shall be required to make oath, before such
officer duly authorized to administer oaths for general purposes as
the superintendent of the Hot Springs Reservation shall designate,
that he is without and unable to obtain the means to pay for baths,
and any person desiring to bathe at the free bathhouse on the Hot
Springs Reservation making a false oath as to his financial condition
shall be deemed guilty of a misdemeanor and upon conviction thereof
shall be subject to a fine of not to exceed twenty-five dollars, or thirty
days' imprisonment, or both. (36 Stat. 1015.)

This was an act entitled "An act limiting the privileges of the Government
free bathhouse on the public reservation at Hot Springs, Arkansas, to persons
who are without and unable to obtain the means to pay for baths."

§ 5261. (Act April 20, 1904, c. 1400, § 1.) Hot Springs Reserva-
tion; cession of jurisdiction by State of Arkansas accepted;
operation of laws of United States and of Arkansas within
reservation.

The portion of the Hot Springs Mountain Reservation in the
State of Arkansas situated and lying within boundaries defined
as follows, "commencing at stone monument numbered seven, set
upon the west line of Reserve avenue and marking the bound-
ary line of Hot Springs Mountain, and running thence in a north-
westerly direction to a point upon the south line of Fountain street to
a stone monument numbered forty-two and marking the boundary line
of Hot Springs Mountain; thence along the south line of Fountain street to its intersection with Central avenue or to stone monument
numbered thirty-three; thence south along the east line of Central
avenue to where the same is intersected by Reserve avenue at stone
monument numbered thirty; thence along the north boundary line
of Reserve avenue to stone monument numbered seven, the point of
commencement; all in township two south, range nineteen west, in
the county of Garland and State of Arkansas, being a part of the perma-
nent United States Hot Springs Reservation," sole and exclusive jurisdic-
tion over which was ceded to the United States by an act of the gen-
eral assembly of the State of Arkansas, entitled "An act ceding
jurisdiction to the United States over a part of the Hot Springs
Mountain Reservation," approved February twenty-first, nineteen
hundred and three, which cession is hereby accepted, or within such
boundaries as may be defined hereafter, shall be under the sole and
exclusive jurisdiction of the United States, and all laws applicable to
places under such sole and exclusive jurisdiction shall have full force
and effect therein: Provided, That nothing in this Act shall be so con-
strued as to forbid the service within said boundaries of any civil or
criminal process of any court having jurisdiction in the State of
Arkansas; that all fugitives from justice taking refuge within said
boundaries shall, on due application to the executive of said State,
whose warrant may lawfully run within said territory for said purpose,
be subject to the laws which apply to fugitives from justice found in
the State of Arkansas: And provided further, That this Act shall not
be so construed as to interfere with the right to tax all structures and
other property in private ownership within the boundaries above de-
scribed, accorded to the State of Arkansas by section five of the Act of Congress approved March third, eighteen hundred and ninety-one, entitled "An Act to regulate the granting of leases at Hot Springs, Arkansas, and for other purposes." (33 Stat. 187.)

This section and the twelve sections next following were an act entitled "An act conferring jurisdiction upon United States Commissioners over offenses committed in a portion of the permanent Hot Springs Mountain Reservation, Arkansas."

Act March 3, 1891, c. 533, § 5, mentioned in this section, which gave consent to taxation, under the laws of the State, of private property within the reservation, is set forth ante, § 5255.

The line of the reservation was changed, and the tract of land thereby excluded was ceded to the city of Hot Springs, to be used for street purposes only, by Act May 22, 1906, c. 2552, 34 Stat. 198.

A strip of land described was ceded to the city of Hot Springs for use as a public street, by Act June 26, 1910, c. 417, 36 Stat. 844.

§ 5262. (Act April 20, 1904, c. 1400, § 2.) Reservation included in eastern judicial district of Arkansas; jurisdiction of offenses committed therein.

Said above-described portion of said reservation shall constitute a part of the eastern United States judicial district of Arkansas, and the district and circuit courts of the United States in and for said district shall have jurisdiction of all offenses committed within said boundaries. (33 Stat. 187.)

§ 5263. (Act April 20, 1904, c. 1400, § 3.) Injuries to property punishable.

Any person who shall, within the said above-mentioned tract, commit any damage, injury, or spoliation to or upon any building fence, hedge, gate, guidepost, tree, wood, underwood, timber, garden, crops, vegetables, plants, land, springs, mineral deposits, natural curiosities, or other matter or thing growing or being thereon, or situated therein, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than one hundred dollars and be adjudged to pay all costs of the proceedings. (33 Stat. 187.)

§ 5264. (Act April 20, 1904, c. 1400, § 4.) Taking or use of or bathing in water of springs in violation of rules and regulations or of restrictions imposed punishable.

Any person who shall, except in compliance with such rules and regulations as the Secretary of the Interior may deem necessary, and which he is hereby authorized and directed to make, enter or attempt to enter upon said described tract, take, or attempt to take, use, or attempt to use, bathe in, or attempt to bathe in water of any spring located thereon, or without presenting satisfactory evidence that he or she (provided he or she is under medical treatment) is the patient of a physician duly registered at the office of the superintendent of the Hot Springs Reservation as one qualified, under such rules, which the Secretary of the Interior may have made or shall make, to prescribe the waters of the Hot Springs, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subject to a fine of not more than one hundred dollars, and be adjudged to pay all costs.
of the proceedings: Provided, That no physician who shall engage in
the solicitation of patronage through the medium of drummers, or
otherwise, shall be or remain thus registered: And provided further,
That if any person so bathing, or attempting to bathe, or so entering,
or attempting to enter upon the described tract, shall have the permit
of a physician, such physician shall be liable to the penalties of this
section, unless he be regularly registered; and such person shall not be
liable to the penalties of this section, unless it shall be made to appear
that he knew, or had reason to believe, that the physician giving him
such permit was not regularly registered. (33 Stat. 188.)

§ 5265. (Act April 20, 1904, c. 1400, § 5.) Offenses under ordi-
nances of city of Hot Springs or laws of State of Arkansas
punishable.

If any act shall be committed within said boundaries which
would constitute an offense under the municipal ordinances of the
city of Hot Springs or the laws of the State of Arkansas, but which
is not prohibited or the punishment of which is not specially provided
for by any law of the United States, regulation of the Secretary of
the Interior, or by this Act, the offender shall be subject to the same
punishment as the said municipal ordinances of the city of Hot Springs,
or the laws of the State of Arkansas in force at the time of the
commission of the offense, may provide for a like offense in the said
State, and no subsequent repeal of any such law or ordinance shall
affect any pending prosecution for an offense committed within said
boundaries. (33 Stat. 188.)

§ 5266. (Act April 20, 1904, c. 1400, § 6, as amended, Act March
2, 1907, c. 2516, and Act March 3, 1911, c. 230.) Prosecu-
tions for violations of rules and regulations or of provisions
of act.

Any United States commissioner duly appointed by the United
States district court for the eastern district of Arkansas, and re-
siding in said district, shall have power and jurisdiction to hear and
act upon all complaints made of any and all violations of said Act
of Congress approved April twentieth, nineteen hundred and four.
That any of said commissioners shall have power, upon sworn com-
plaint, to issue process in the name of the United States for the ar-
rest of any person charged with the doing, otherwise than in compli-
ance with the rules and regulations of the Secretary of the Interior,
of any act with reference to the matters which the Secretary of the
Interior in section four of this Act is authorized to regulate, or in vi-
olation of such rules and regulations, or in violation of any provision
of this Act, or with any misdemeanor or other like offense the punish-
ment provided for which does not exceed a fine of one hundred dollars
to try the person thus charged, and if found guilty, to impose the
penalty prescribed. In all cases of conviction an appeal shall lie from
the judgment of any of said commissioners to the United States dis-

(2216)
any of said commissioners in the trial of cases and with reference to said appeals. (33 Stat. 188. 34 Stat. 1218. 36 Stat. 1086.)

This section was amended by section 1 of Act March 2, 1907, c. 2516, cited above, by prefixing to the section as originally enacted, a provision which, as further amended by amendment of said section 1 by Act March 8, 1911, c. 280, cited above, is the first sentence of this section, as set forth here.

By further amendment of this act by section 2 of said Act March 2, 1907, c. 2516, the words "any of said commissioners" in this and subsequent sections were inserted in lieu of the words "commissioner," "such commissioner," "said commissioner," or "the commissioner," whenever they occurred in said Act April 20, 1904, c. 1400, as originally enacted.

§ 5267. (Act April 20, 1904, c. 1400, § 7, as amended, Act March 2, 1907, c. 2516, § 2.) Prosecutions for other offenses.

Any of said commissioners shall also have power to issue process as hereinbefore provided for the arrest of any person charged with the commission, within said boundaries, of any criminal offense not covered by the provisions of section six of this Act, to hear the evidence introduced, and if he is of opinion that probable cause is shown for holding the person so charged for trial, shall cause such person to be safely conveyed to a secure place for confinement, within the jurisdiction of the United States district court for the eastern district of Arkansas, and certify a transcript of the record of his proceedings and the testimony in the case to said court, which court shall have jurisdiction of the case: Provided, That any of said commissioners shall grant bail in all cases bailable under the laws of the United States or of the State of Arkansas or the ordinances of the city of Hot Springs. (33 Stat. 188. 34 Stat. 1218.)

See notes to sections 1 and 6 of this act, ante, §§ 5261, 5266.

§ 5268. (Act April 20, 1904, c. 1400, § 8, as amended, Act March 2, 1907, c. 2516, § 2.) Process to be directed to United States marshal; arrests by other officers or persons.

All process issued by any of said commissioners shall be directed to the marshal of the United States for the eastern district of Arkansas, but nothing herein contained shall be so construed as to prevent the arrest by any officer of the Government, police of said reservation, police officer of the city of Hot Springs, or employee of the United States within said boundaries, without process, of any person taken in the act of violating the law or this Act, or doing anything with reference to the matters which in section four of this Act the Secretary of the Interior is authorized to regulate, except in compliance with such rules and regulations, or committing any act in violation of such regulations. (33 Stat. 189. 34 Stat. 1218.)

See notes to sections 1 and 6 of this act, ante, §§ 5261, 5266.

§ 5269. (Act April 20, 1904, c. 1400, § 9, as amended, Act March 2, 1907, c. 2516, § 2.) Fees of commissioner and of marshal and deputies.

Any of said commissioners referred to in this Act and the marshal of the United States and his deputies in the eastern district of Arkansas shall be paid the same fees and compensation as are now (2217)
provided by law for like services in said district. (33 Stat. 189. 34 Stat. 1218.)

See notes to sections 1 and 6 of this act, ante, §§ 5261, 5266.

§ 5270. (Act April 20, 1904, c. 1400, § 10.) Fees chargeable to United States.

All fees, costs, and expenses arising in cases under this Act and properly chargeable to the United States shall be certified, approved, and paid as are like fees, costs, and expenses in the courts of the United States. (33 Stat. 189.)

§ 5271. (Act April 20, 1904, c. 1400, § 11, as amended, Act March 2, 1907, c. 2516, § 2.) Disposition of fines and costs.

All fines and costs imposed and collected shall be deposited by any of said commissioners of the United States or the marshal of the United States collecting the same with the clerk of the United States district court for the judicial district in which said reservation may be situated. (33 Stat. 189. 34 Stat. 1218.)

See notes to sections 1 and 6 of this act, ante, §§ 5261, 5266.

§ 5272. (Act April 20, 1904, c. 1400, § 12.) Imprisonment for nonpayment of fines or costs, or while awaiting trial without bail.

All persons who may be imprisoned for nonpayment of any fine, or costs, provided for by this Act, or awaiting trial without bail, shall be confined in the jail of Pulaski County, at Little Rock, Arkansas, or at such place as may be otherwise designated. (33 Stat. 189.)

§ 5273. (Act April 20, 1904, c. 1400, § 13, as amended, Act March 2, 1907, c. 2516, § 2.) Execution of sentence upon conviction.

Upon the conviction of a party upon trial by any of said commissioners or by said district court, execution of sentence shall be in conformity with the laws of the United States, anything in the statutes of the State of Arkansas to the contrary notwithstanding. (33 Stat. 189. 34 Stat. 1218.)

See notes to sections 1 and 6 of this act, ante, §§ 5261, 5266.

§ 5274. (Act May 23, 1908, c. 192.) National Bison Range; establishment; care and maintenance of bison.

National Bison Range: The President is hereby directed to reserve and except from the unallotted lands now embraced within the Flathead Indian Reservation, in the State of Montana, not to exceed twelve thousand eight hundred acres of said lands, near the confluence of the Pend d'Oreille and Jocko rivers, for a permanent national bison range for the herd of bison to be presented by the American Bison Society. And there is hereby appropriated the sum of thirty thousand dollars, or so much thereof as may be necessary, to enable the Secretary of the Interior to pay the confederated tribes of the Flathead, Kootenai, and Upper Pend d'Oreille, and such other Indians and persons holding tribal relations or may rightfully belong on said Flathead Indian Reservation, the appraised value of said lands as shall be fixed and determined under the provisions of the Act of Congress approved April twenty-third, nineteen hundred and four, entitled "An Act for the
survey and allotment of lands now embraced within the limits of the
Flathead Indian Reservation, in the State of Montana, and the sale
and disposal of all surplus lands after allotment.” And the Secretary
of Agriculture is hereby authorized and directed to inclose said lands
with a good and substantial fence and to erect thereon the necessary
sheds and buildings for the proper care and maintenance of the said
bison. (35 Stat. 267.)

These were provisions of the agricultural appropriation act for the fiscal year
1908, cited above.

Subsequent appropriations for maintenance of the Bison Range are made in the annual agricultural appropriation acts. The provision for the fiscal
year 1914 was by Act March 4, 1913, c. 145, 37 Stat. 947.

§ 5275. (Act Aug. 10, 1912, c. 284.) Wind Cave National Game
Preserve; establishment.

For the establishment of a national game preserve, to be known as the Wind Cave National Game Preserve, upon the land em-
braced within the boundaries of the Wind Cave National Park, in the State of South Dakota, for a permanent national range for a herd of buffalo to be presented to the United States by the Ameri-
can Bison Society, and for such other native American game ani-
mals as may be placed therein. The Secretary of Agriculture is
authorized to acquire by purchase or condemnation such adjacent
lands as may be necessary for the purpose of assuring an ade-
quate, permanent water supply, and to enclose the said game pre-
serve with a good and substantial fence and to erect thereon all
necessary sheds and buildings for the proper care and maintenance
of the said animals, twenty-six thousand dollars, to be available
until expended. (37 Stat. 293.)

These were provisions of the agricultural appropriation act for the fiscal
year 1918, cited above.

§ 5276. (Act Aug. 10, 1912, c. 284.) Wyoming Elk Reserve; es-
tablishment.

For the establishment of a winter game (elk) reserve in the State of Wyoming, which shall be located in that section of Wy-
oming lying south of the Yellowstone Park, and shall include not
less than two thousand acres in township forty-one north, ranges
one hundred and fifteen and one hundred and sixteen west, forty-
five thousand dollars, to be available until expended, and the Secre-
tary of Agriculture is hereby authorized to purchase said lands
with improvements, to erect necessary buildings and inclosures,
and to incur other expenses necessary for the maintenance of the
reserve. (37 Stat. 293.)

These were further provisions of the agricultural appropriation act for the
fiscal year 1913, cited above.

A subsequent provision for the establishment of a winter elk refuge was
made by Act March 4, 1913, c. 145, post, § 5277.

§ 5277. (Act March 4, 1913, c. 145.) Wyoming Elk Refuge; es-
tablishment.

For the establishment and maintenance of a winter elk refuge in the State of Wyoming, $5,000, to be available until expended,
and the Secretary of Agriculture is hereby authorized to include in said refuge and to inclose not more than one thousand acres of unoccupied public lands, which when selected shall be made to conform to the lines of the public surveys, and shall be adjacent to or partly inclosed by said refuge. (37 Stat. 847.)

This was a provision of the agricultural appropriation act for the fiscal year 1914, cited above.

§ 5278. (Act June 8, 1906, c. 3060, § 1.) American antiquities; appropriation, etc., or destruction of objects of antiquity on lands of United States without permission, punishable; penalty.

Any person who shall appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States, without the permission of the Secretary of the Department of the Government having jurisdiction over the lands on which said antiquities are situated, shall, upon conviction, be fined in a sum of not more than five hundred dollars or be imprisoned for a period of not more than ninety days, or shall suffer both fine and imprisonment, in the discretion of the court. (34 Stat. 225.)

This section and the three sections next following were an act entitled "An act for the preservation of American antiquities."

§ 5279. (Act June 8, 1906, c. 3060, § 2.) National monuments; historic landmarks, structures, etc.; reservation of parcels of land; relinquishment of private claims.

The President of the United States is hereby authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land, the limits of which in all cases shall be confined to the smallest area compatible with the proper care and management of the objects to be protected: Provided, That when such objects are situated upon a tract covered by a bona fide unperfected claim or held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in behalf of the Government of the United States. (34 Stat. 225.)

§ 5280. (Act June 8, 1906, c. 3060, § 3.) American antiquities; permits for examination of ruins, excavation of archaeological sites, and gathering of objects.

Permits for the examination of ruins, the excavation of archaeological sites, and the gathering of objects of antiquity upon the lands under their respective jurisdictions may be granted by the Secretaries of the Interior, Agriculture, and War to institutions which they may deem properly qualified to conduct such examination, excavation, or gathering, subject to such rules and regulations as they may pre-
scribe: Provided, That the examinations, excavations, and gatherings are undertaken for the benefit of reputable museums, universities, colleges, or other recognized scientific or educational institutions, with a view to increasing the knowledge of such objects, and that the gatherings shall be made for permanent preservation in public museums. (34 Stat. 225.)

§ 5281. (Act June 8, 1906, c. 3060, § 4.) Regulations for carrying out provisions of act.

The Secretaries of the Departments aforesaid shall make and publish from time to time uniform rules and regulations for the purpose of carrying out the provisions of this Act. (34 Stat. 225.)

See notes to section 1 of this act, ante, § 5278.

(2221)
TITLE XXXII C
THE NATIONAL MILITARY PARKS

This title, inserted here as additional to the original titles of the Revised Statutes, includes principally Act May 15, 1896, c. 182, and Act March 3, 1897, c. 372, with other provisions of a general and permanent nature relating to the national military parks.

§ 5282. (Act May 15, 1896, c. 182, § 1.) Military parks, fields for military maneuvers for Army and Militia.

In order to obtain practical benefits of great value to the country from the establishment of national military parks, said parks and their approaches are hereby declared to be national fields for military maneuvers for the Regular Army of the United States and the National Guard or Militia of the States: Provided, That the said parks shall be opened for such purposes only in the discretion of the Secretary of War, and under such regulations as he may prescribe. (29 Stat. 120.)

This section and the section next following were an act entitled "An act authorizing the Secretary of War to make certain uses of national military parks."


Each of these acts provided that the parks thereby created should be under the control of the Secretary of War, who should make rules and regulations for its care. The acts also provided for the leasing of the lands within the various parks to former owners and others, and for the placing of monuments by the various States or other organizations to mark the lines of battle, position of troops, etc.

Many of the acts also contained provisions applying only to the particular park thereby created.

The lands acquired by the United States for locating and marking the location of each command of the regular army engaged in the battle of Antietam were placed under the control of the Secretary of War, by Act Aug. 30, 1890, c. 537, 26 Stat. 401.

Fort McHenry and the Government grounds connected therewith were to (2222)
remain a Government reservation, in the control of the War Department, by
Act Aug. 16, 1912, c. 296, 37 Stat. 311.
All these acts are omitted, as special and local in their nature.

§ 5283. (Act May 15, 1896, c. 182, § 2.) Camps for military in-
stillation.
The Secretary of War is hereby authorized, within the limits of
appropriations which may from time to time be available for
such purpose, to assemble, at his discretion, in camp at such sea-
son of the year and for such period as he may designate, at such
field of military maneuvers, such portions of the military forces of
the United States as he may think best, to receive military instruc-
tion there.
The Secretary of War is further authorized to make and publish
regulations governing the assembling of the National Guard or Militia
of the several States upon the maneuvering grounds, and he may
detail instructors from the Regular Army for such forces during
their exercises. (29 Stat. 121.)

§ 5284. (Act March 3, 1897, c. 372, § 1.) Destruction, etc., of
monuments, etc., trees, etc., in parks.
Every person who willfully destroys, mutilates, defaces, injures,
or removes any monument, statue, marker, guidepost, or other
structure, or who willfully destroys, cuts, breaks, injures, or re-
moves any tree, shrub, or plant within the limits of any national
parks shall be deemed guilty of a misdemeanor, punishable by a
fine of not less than ten dollars nor more than one thousand dol-
ars for each monument, statue, marker, guidepost, or other struc-
ture, tree, shrub, or plant destroyed, defaced, injured, cut, or re-
moved, or by imprisonment for not less than fifteen days and not
more than one year, or by both fine and imprisonment. (29 Stat.
621.)
This section and the four sections next following were an act entitled "An
act to prevent trespassing upon and providing for the protection of national
military parks."

§ 5285. (Act March 3, 1897, c. 372, § 2.) Trespassing for hunting,
etc., in parks.
Every person who shall trespass upon any national parks for
the purpose of hunting or shooting, or who shall hunt any kind
of game thereon with gun or dog, or shall set trap or net or other
device whatsoever thereon for the purpose of hunting or catching
game of any kind, shall be guilty of a misdemeanor, punishable
by a fine of not more than one thousand dollars or by imprison-
ment for not less than five days or more than thirty days, or by
both fine and imprisonment. (29 Stat. 621.)

§ 5286. (Act March 3, 1897, c. 372, § 3.) Arrest and prosecution
of offenders.
The superintendent or any guardian of such park is authorized
(22223)
§ 5287. THE NATIONAL MILITARY PARKS (Tit. 320)

to arrest forthwith any person engaged or who may have been engaged in committing any misdemeanor named in this Act, and shall bring such person before any United States commissioner or judge of any district or circuit court of the United States within either of the districts within which the park is situated, and in the district within which the misdemeanor has been committed, for the purpose of holding him to answer for such misdemeanor, and then and there shall make complaint in due form. (29 Stat. 621.)

§ 5287. (Act March 3, 1897, c. 372, § 4.) Refusal to surrender land within parks.

Any person to whom land lying within any national parks may have been leased, who refuses to give up possession of the same to the United States after the termination of said lease, and after possession has been demanded for the United States by any park commissioner or the park superintendent, or any person retaining possession of land lying within the boundary of said park which he or she may have sold to the United States for park purposes and have received payment therefor, after possession of the same has been demanded for the United States by any park commissioner or the park superintendent, shall be deemed guilty of trespass, and the United States may maintain an action for the recovery of the possession of the premises so withheld in the courts of the United States, according to the statutes or code of practice of the State in which the park may be situated. (29 Stat. 622.)


This Act shall apply only to the military parks of the United States. (29 Stat. 622.)

See note to section 1 of this act, ante, § 5284.

§ 5289. (Act Aug. 18, 1894, c. 301, § 1.) Acceptance of donations of land.

The Secretary of War is hereby authorized to accept on behalf of the United States donations of land for road or other purposes. (28 Stat. 405.)

A similar provision, authorizing acceptance of donations for road purposes, was contained in the sundry civil appropriation act of March 3, 1893, c. 298, § 1, 27 Stat. 599, annexed to an appropriation for the Chickamauga and Chattanooga National Park. This provision was annexed to a similar appropriation for the Gettysburg battlefield, in the sundry civil appropriation act for the fiscal year 1895. Although the appropriations are local and temporary, this provision was in form general and permanent.

§ 5290. (Act Aug. 24, 1912, c. 355.) Vacancies occurring in commissions in charge of national military parks not to be filled; Secretary of War to become member of commission when vacancies occur.

Hereafter vacancies occurring by death or resignation in the membership of the several commissions in charge of national military parks shall not be filled, and the duties of the offices thus vacated shall devolve upon the remaining commissioners or commiss-
sioner for each of said parks: Provided, That as vacancies occur hereunder the Secretary of War shall become ex officio a member of the commission effected with full authority to act with the remaining commissioners or commissioner, and in case of the vacation of all the offices of commissioner in any one park hereunder the duties of such commission shall thereafter be performed under the direction of the Secretary of War. (37 Stat. 442.)

This was a provision of the sundry civil appropriation act for the fiscal year 1913, cited above.

Comp.St.18–140
TITLE XXXIII

DUTIES UPON IMPORTS

(R. S. §§ 2491–2516. Superseded and repealed.)

This Title, as enacted in the Revised Statutes, included sections 2491–2516 thereof, of which sections 2503, 2504, contained the schedules of articles subject to duty and the rates of duty thereon, then in force, with a proviso annexed to section 2503, for special rates of duty on certain specified classes of goods; section 2504 contained the free list, of articles exempt from duty; and the other sections contained various particular provisions relating to imports and duties thereon. Said rates of duty on certain articles were altered and additional articles were included in the free list, by Act Feb. 8, 1875, c. 36, §§ 1–10, 18 Stat. 307; and further alterations were made, and said proviso to R. S. § 2503, was repealed, by Act March 3, 1875, c. 127, §§ 3–6, 18 Stat. 340. R. S. § 2501, was also repealed by Act May 4, 1882, c. 120, 22 Stat. 58, and Act Dec. 23, 1882, c. 6, 22 Stat. 588; and R. S. § 2506, was repealed, on the termination of articles 18–25, 50, of the treaty with Great Britain of May 8, 1871, pursuant to the Joint Resolution of March 3, 1883, No. 22, 22 Stat. 641.

A substitute for this entire Title was enacted by section 6 of Act March 3, 1883, c. 121, 22 Stat. 488, 489, entitled "An act to reduce internal-revenue taxation, and for other purposes." Said substitute was in the form of new sections of the Revised Statutes, numbered 2491–2515, arranged in different order, but covering the subjects of most of the original sections then in force. New tariff schedules and free list, substitutes for the original R. S. §§ 2503, 2504, were contained in the new sections 2502, 2503. Further sections of said act, Act March 3, 1883, c. 121, §§ 7–13, 22 Stat. 523, made other amendments and provisions relating to rates of duties and collection thereof.

All such previous provisions relating to the subject of this Title were superseded by the provisions prescribing the articles subject to duty, and the rates of duty thereon, of the McKinley Tariff Act of Oct. 1, 1880, c. 1244, §§ 1–25, 26 Stat. 537. These, in like manner, were superseded by the Wilson Tariff Act of Aug. 27, 1894, c. 349, 28 Stat. 500, which was superseded by the Dingley Tariff Act of July 24, 1897, c. 11, which, again, was superseded by the Payne–Aldrich Tariff Act of Aug. 5, 1909, c. 6, 36 Stat. 11, and that was superseded by the Underwood Tariff Act of Oct. 3, 1913, c. 16, §§ 1, 4, 38 Stat. 114.

This Title includes the provisions of said sections 1 and 4 of said Underwood Tariff Act of 1913, with the provisions of other acts which remain in force, relating to the subject.

Sec. 5291. Articles dutiable, and rates of duty; Schedules and Free List.

Sec. 5292. Negotiation by President of trade agreements with foreign nations authorized.

5293. Reciprocity treaty with Cuba of Dec. 11, 1902, and Act Dec. 17, 1903, c. 1, for execution thereof, not affected by this act, except as to proviso of treaty abrogated.

5294. Duties on articles coming from Philippine Islands; certain articles free of duty; certain articles from United States free of duty in Philippine Islands; taxes equal to internal-revenue taxes on articles coming into United States from Philippine Islands, and into Philippine Islands from United States; internal revenues collected in Philippine Islands to accrue to government thereof; repeal of provision authorising export duties.

(2226)
Sec. 5295. Exemption of articles going into Porto Rico from United States from internal-revenue taxes.

5296. Countervailing duty on articles on which bounty on exportation was paid.

5297. Articles to be marked to indicate country of origin; packages to indicate country of origin and quantity of contents.

5298. Fraudulent violation of provisions relating to marking, etc., articles or packages, or defacing, etc., marks, etc.; punishment.

5299. Importation of obscene books, etc., or other articles, or of lottery tickets, etc., prohibited; seizure and forfeiture.

5300. Aiding, etc., by officer, etc., in violation of provisions prohibiting importation, etc., of obscene publications, etc., or other articles, a misdemeanor; punishment.

5301. Proceedings for seizure, etc., of articles mentioned in two preceding subsections, for violation thereof.

5302. Importation of neat cattle and hides thereof prohibited; suspension of prohibition, in part, authorized.

5303. Violation of provisions of preceding subsection, punishable.

5304. Importation of goods manufactured by convict labor prohibited.

5305. Discriminating duty on goods imported in foreign vessels.

5306. Importation only in vessels of United States or of country of origin of goods.

5307. Restriction of preceding subsection to vessels, or goods, etc., imported in vessels of foreign nations maintaining similar regulation.

5308. Admission, without payment of duty, under bond for exportation, of certain articles for purposes or use specified, not for sale.

5309. Importation in bond of materials for construction of naval vessels or certain other vessels, and of materials for building their machinery, and articles for their outfit and equipment; use thereof free of duty.

5310. Withdrawal from bond, free of duty, of articles for repair of naval vessels or certain other vessels.

5311. Discount on duties on goods, etc., imported in vessels registered under laws of United States.

5312. Admission free of duty of merchandise from vessels sunk and abandoned.

5313. Duty on articles reimported after exportation free of internal revenue tax.

5314. Duties imposed by act applicable to goods, etc., previously imported but not entered, or entered without payment of duty and under bond.

5315. President to ascertain amount of imports and exports of articles enumerated in section 1 of act, and cause estimate to be made of amount of domestic production and consumption thereof, and advise Congress when imports amount to less than five per centum of domestic consumption.

5316. Repeal of Act Aug. 5, 1909, c. 6, §§ 1–42, and of all inconsistent acts and parts of acts; limitations on operation of act and on effect of repeals of other acts thereby.

5317. Effect of invalidity of part of act on remainder thereof.

5318. Time of taking effect of act.

5319. Suspension of importation of products from countries making unjust discriminations.

5320. Grain brought from Canada by farmers to be ground not subject to duty.

5321. Return free of duty of articles or live-stock exported for exhibition.

5322. Return free of duty of animals taken abroad for exhibition.

5323. Laws affecting imports of articles, etc., and entry of persons into United States from foreign countries to apply to articles, etc., and persons coming from Canal Zone, isthmus of Panama.

5324. Reduction of duties on products of Cuba authorized; limitation of reduction of duties on sugar; construction of act as to origin of acts changing customs duties.

(2227)
§ 5291 DUTIES UPON IMPORTS

Sec. 5325. No additional fees or charges on products of Cuba; equal treatment of imports by both countries.

Sec. 5326. Duties on specified imports from Canada, when reciprocal rates are imposed by Canada on specified imports from United States, and exemption from duty of specified articles imported from Canada, when specified articles from United States are admitted into Canada free of duty.

§ 5291. (Act Oct. 3, 1913, c. 16, § 1.) Articles dutiable, and rates of duty; Schedules and Free List.

On and after the day following the passage of this Act, except as otherwise specially provided for in this Act, there shall be levied, collected, and paid upon all articles when imported from any foreign country into the United States or into any of its possessions (except the Philippine Islands and the islands of Guam and Tutuila) the rates of duty which are by the schedules and paragraphs of the dutiable list of this section prescribed, namely:

DUTIABLE LIST

SCHEDULE A.—CHEMICALS, OILS, AND PAINTS.

1. Acids: Boracic acid, 8½ cents per pound; citric acid, 5 cents per pound; formic acid, 1½ cents per pound; gallic acid, 6 cents per pound; lactic acid, 1¾ cents per pound; oxalic acid, 1½ cents per pound; pyrogallic acid, 12 cents per pound; salicylic acid, 2½ cents per pound; tannic acid and tannin, 5 cents per pound; tartaric acid, 3¾ cents per pound; all other acids and acid anhydrides not specially provided for in this section, 15 per centum ad valorem.

2. Acetic anhydrid, 2½ cents per pound.

3. Acetone, 1 cent per pound.

4. Dried egg albumen, 3 cents per pound.

5. Alkalies, alkaloids, and all chemical and medicinal compounds, preparations, mixtures and salts, and combinations thereof not specially provided for in this section, 15 per centum ad valorem.

6. Alumina, hydrate of, or refined bauxite; alum, alum cake, patent alum, sulphate of alumina, and aluminium cake, and all other manufactured compounds of alumina, not specially provided for in this section, 15 per centum ad valorem.

7. Ammonia, carbonate of, and muriate of, 3/ of 1 cent per pound; phosphate of, 1 cent per pound; liquid anhydrous, 2½ cents per pound; ammoniacal gas liquor, 10 per centum ad valorem.

8. Argols or crude tartar or wine·lees crude or partly refined, containing not more than 90 per centum of potassium bitartrate, 5 per centum ad valorem; containing more than 90 per centum of potassium bitartrate, cream of tartar, and Rochelle salts or tartrate of soda and potassa, 2½ cents per pound; calcium tartrate crude, 5 per centum ad valorem.

9. Balsams: Copaiba, fir or Canada, Peru, tolu, and all other balsams, which are natural and uncompounded and not suitable for (2228)
the manufacture of perfumery and cosmetics, if in a crude state, not advanced in value or condition by any process or treatment whatever beyond that essential to the proper packing of the balsams and the prevention of decay or deterioration pending manufacture, all the foregoing not specially provided for in this section, 10 per centum ad valorem; if advanced in value or condition by any process or treatment whatever beyond that essential to the proper packing of the balsams and the prevention of decay or deterioration pending manufacture, all the foregoing not specially provided for in this section, 15 per centum ad valorem: Provided, That no article containing alcohol shall be classified for duty under this paragraph.

10. Barium, chloride of, ¾ cent per pound; dioxide of, 1½ cents per pound; carbonate of, precipitated, 15 per centum ad valorem.

11. Blacking of all kinds, polishing powders, and all creams and preparations for cleaning or polishing, not specially provided for in this section, 15 per centum ad valorem: Provided, That no preparations containing alcohol shall be classified for duty under this paragraph.

12. Bleaching powder, or chloride of lime, 7/10 cent per pound.

13. Caffeine, $1 per pound; compounds of caffeine, 25 per centum ad valorem; impure tea, tea waste, tea siftings or sweepings, for manufacturing purposes in bond, pursuant to the provisions of the Act of May sixteenth, nineteen hundred and eight, 1 cent per pound.

14. Calomel, corrosive sublimate, and other mercurial preparations, 15 per centum ad valorem.

15. Chalk, precipitated, suitable for medicinal or toilet purposes; chalk put up in the form of cubes, blocks, sticks, or disks, or otherwise, including tailors', billiard, red, and other manufactures of chalk not specially provided for in this section, 25 per centum ad valorem.

16. Chemical and medicinal compounds and preparations, including mixtures and salts, distilled oils, essential oils, expressed oils, rendered oils, greases, ethers, flavoring and other extracts and fruit essences, all the foregoing and their combinations when containing alcohol, and all articles consisting of vegetable or mineral objects immersed or placed in, or saturated with, alcohol, except perfumery and spirit varnishes, and all alcoholic compounds not specially provided for in this section, if containing 20 per centum of alcohol or less, 10 cents per pound and 20 per centum ad valorem; containing more than 20 per centum and not more than 50 per centum of alcohol, 20 cents per pound and 20 per centum ad valorem; containing more than 50 per centum of alcohol, 40 cents per pound and 20 per centum ad valorem.

17. Chemical and medicinal compounds, combinations and all similar articles dutiable under this section, except soap, whether specially provided for or not, put up in individual packages of two and one-half pounds or less gross weight (except samples without commercial value) shall be dutiable at a rate not less than 20 per
centum ad valorem: Provided, That chemicals, drugs, medicinal
and similar substances, whether dutiable or free, imported in cap-
sules, pills, tablets, lozenges, troches, ampoules, jubes, or similar
forms, shall be dutiable at not less than 25 per centum ad valorem.
18. Chloral hydrate, salol, phenolphthalein, urea, terpin hydrate,
acetanilid, acetphenetidin, antipyrine, glyceralophosphoric acid and
salts and compounds thereof, acetylsalicylic acid, aspirin, guiacol
carbonate, and thymol, 25 per centum ad valorem.
19. Chloroform, 2 cents per pound; carbon tetrachloride, 1 cent
per pound.
20. Coal-tar dyes or colors, not specially provided for in this sec-
tion, 30 per centum ad valorem.
21. All other products or preparations of coal tar, not colors or
dyes, not specially provided for in this section, 15 per centum ad
valorem.
22. Coal-tar distillates, not specially provided for in this section;
benzol, naphtol, resorcin, toluol, xylol; all the foregoing not me-
dicinal and not colors or dyes, 5 per centum ad valorem.
23. Coal-tar products known as anilin oil and salts, toluidine,
xylidin, cumidin, binitrotoluol, binitrobenzol, benzidin, tolidin, dia-
nisidin, naphthylamin, diphenylamin, benzaldehyde, benzyl chlo-
ride, nitro-benzol and nitrotoluol, naphtylaminsulphoacids and their
sodium or potassium salts, naphhtolsulphoacids and their sodium or
potassium salts, amidonaphhtolsulphoacids and their sodium or potas-
sium salts, amidosalicylic acid, binitrochlorbenzol, diamidostilben-
disulphoacid, metanilic acid, paranitranilin, dimethylanilin; all the
foregoing not medicinal and not colors or dyes, 10 per centum ad
valorem.
24. Cobalt, oxide of, 10 cents per pound.
25. Collodion and all other liquid solutions of pyroxylin, or of
other cellulose esters, or of cellulose, 15 per centum ad valorem;
compounds of pyroxylin or of other cellulose esters, whether
known as celluloid or by any other name, if in blocks, sheets, rods,
tubes, or other forms not polished, wholly or partly, and not made
into finished or partly finished articles, 25 per centum ad valorem;
if polished, wholly or partly, or if finished or partly finished arti-
cles, of which collodion or any compound of pyroxylin or other
cellulose esters, by whatever name known, is the component ma-
terial of chief value, 40 per centum ad valorem.
26. Coloring for brandy, wine, beer, or other liquors, 40 per
centum ad valorem.
27. Drugs, such as barks, beans, berries, buds, bulbs, bulbous
roots, excrescences, fruits, flowers, dried fibers, dried insects, grains,
gums, herbs, leaves, lichens, mosses, roots, stems, vegetables, seeds
(aromatic, not garden seeds), seeds of morbid growth, and weeds;
any of the foregoing which are natural and uncompounded drugs
and not edible, and not specially provided for in this section, but
which are advanced in value or condition by shredding, grinding,
chipping, crushing, or any other process or treatment whatever be-
yond that essential to the proper packing of the drugs and the pre-

(2280)
vention of decay or deterioration pending manufacture, 10 per centum ad valorem: Provided, That no article containing alcohol shall be classified for duty under this paragraph.

28. Ergot, 10 cents per pound.

29. Ethers: Sulphuric, 4 cents per pound; amyl nitrite, 20 per centum ad valorem; amyl acetate and ethyl acetate or acetic ether, 5 cents per pound; ethyl chloride, 20 per centum ad valorem; ethers and esters of all kinds not specially provided for in this section, 20 per centum ad valorem: Provided, That no article containing more than 10 per centum of alcohol shall be classified for duty under this paragraph.

30. Extracts and decoctions of nutgalls, Persian berries, sumac, logwood, and other dyewoods, and all extracts of vegetable origin suitable for dyeing, coloring, or staining, not specially provided for in this section; all the foregoing not containing alcohol and not medicinal, ⅔ of 1 cent per pound.

31. Extract of chlorophyll, 15 per centum ad valorem; saffron and safflower, and extract of, and saffron cake, 10 per centum ad valorem: Provided, That no article containing alcohol shall be classified for duty under this paragraph.

32. Formaldehyde solution containing not more than 40 per centum of formaldehyde, or formaline, 1 cent per pound.

33. Fusel oil, or amyllic alcohol, ⅔ cent per pound.

34. Gelatin, glue, and glue size, valued not above 10 cents per pound, 1 cent per pound; valued above 10 cents per pound and not above 25 cents per pound, 15 per centum ad valorem; valued above 25 cents per pound, 25 per centum ad valorem; manufactures of gelatin or manufactures of which gelatin is the component material of chief value, 25 per centum ad valorem; isinglass and prepared fish sounds, 25 per centum ad valorem; agar-agar, 20 per centum ad valorem.

35. Glycerin, crude, not purified, 1 cent per pound; refined, 2 cents per pound.

36. Gums: Amber, and amberoid unmanufactured, or crude gum, not specially provided for in this section, $1 per pound; arabic, or senegal, ½ cent per pound; camphor, crude, natural, 1 cent per pound; camphor, refined and synthetic, 5 cents per pound; chicle, crude, 15 cents per pound; refined or advanced in value by drying, straining, or any other process or treatment whatever beyond that essential to the proper packing, 20 cents per pound; dextrine, made from potato starch or potato flour, 1¼ cents per pound; dextrine, not otherwise provided for, burnt starch or British gum, dextrine substitutes, and soluble or chemically treated starch, ¾ of 1 cent per pound.

37. Ink and ink powders, 15 per centum ad valorem.

38. Iodoform, and potassium iodide, 15 cents per pound.

39. Leaves and roots: Buchu leaves, 10 cents per pound; coca leaves, 10 cents per pound; gentian, ⅔ cent per pound; licorice root, ¼ cent per pound; sarsaparilla root, 1 cent per pound.

(2231)
40. Licorice, extracts of, in pastes, rolls, or other forms, 1 cent per pound.
41. Lime, citrate of, 1 cent per pound.
42. Magnesia: Calcined, 3½ cents per pound; carbonate of, precipitated, 1½ cents per pound; sulphate of, or Epsom salts, 1½ cents per pound.
43. Menthol, 50 cents per pound.
44. Oils, rendered: Sod, seal, herring, and other fish oil, not specially provided for in this section, 3 cents per gallon; whale oil, 5 cents per gallon; sperm oil, 8 cents per gallon; wool grease, including that known commercially as degras or brown wool grease, crude and not refined or improved in value or condition, ½ cent per pound; refined or improved in value or condition, and not specially provided for in this section, ½ cent per pound; lanolin, 1 cent per pound; all other animal oils, rendered oils and greases, and all combinations of the same, not specially provided for in this section, 15 per centum ad valorem.
45. Oils, expressed: Alizarin assistant, sulphoricinoleic acid, and ricinoleic acid, and soaps containing castor oil, any of the foregoing in whatever form, and all other alizarin assistants and all soluble greases used in the processes of softening, dyeing, or finishing, not specially provided for in this section, 25 per centum ad valorem; castor oil, 12 cents per gallon; flaxseed and linseed oil, raw, boiled, or oxidized, 10 cents per gallon of 7½ pounds; poppy-seed oil, raw, boiled, or oxidized, rapeseed oil, and peanut oil, 6 cents per gallon; hempseed oil, 3 cents per gallon; almond oil, sweet, 5 cents per pound; sesame or sesamum seed or bean oil, 1 cent per pound; olive oil, not specially provided for in this section, 20 cents per gallon; olive oil, in bottles, jars, kegs, tins, or other packages having a capacity of less than five standard gallons each, 30 cents per gallon; all other expressed oils and all combinations of the same, not specially provided for in this section, 15 per centum ad valorem.
46. Oils, distilled and essential: Orange and lemon, 10 per centum ad valorem; peppermint, 25 cents per pound; mace oil, 6 cents per pound; almond, bitter; amber; ambergris; anise or anise seed; bergamot; camomile; caraway; cassia; cinnamon; cedrat; citronella and lemon-grass; civet; fennel; jasmine or jasmine; juniper; lavender, and aspic or spike lavender; limes; neroli or orange flower; origanum, red or white; rosemary or anthos; attar of roses; thyme; and valerian; all the foregoing oils, and all fruit ethers, oils, and essences, and essential and distilled oils and all combinations of the same, not specially provided for in this section, 20 per centum ad valorem: Provided, That no article containing alcohol shall be classified for duty under this paragraph.
47. Opium, crude or unmanufactured, and not adulterated, containing 9 per centum and over of morphia, $3 per pound; opium of the same composition, dried to contain 15 per centum or less of moisture, powdered, or otherwise advanced beyond the condition of crude or unmanufactured, $4 per pound; morphia or morphine,
sulphate of, and all alkaloids of opium, and salts and esters thereof, $3 per ounce; cocaine, egenone, and all salts and derivatives of the same, $2 per ounce; aqueous extract of opium, for medicinal uses, and tincture of, as laudanum, and other liquid preparations of opium, not specially provided for in this section, 60 per centum ad valorem; opium containing less than 9 per centum of morphia, $6 per pound; but preparations of opium deposited in bonded warehouses shall not be removed therefrom without payment of duties, and such duties shall not be refunded: Provided, That nothing herein contained shall be so construed as to repeal or in any manner impair or affect the provisions of an Act entitled "An Act to prohibit the importation and use of opium for other than medicinal purposes," approved February ninth, nineteen hundred and nine.

48. Perfumery, including cologne and other toilet waters, articles of perfumery, whether in sachets or otherwise, and all preparations used as applications to the hair, mouth, teeth, or skin, such as cosmetics, dentifrices, including tooth soaps, pastes, including theatrical grease paints, and pastes, pomades, powders, and other toilet preparations, all the foregoing, if containing alcohol, 40 cents per pound and 60 per centum ad valorem; if not containing alcohol, 60 per centum ad valorem; floral or flower waters containing no alcohol, not specially provided for in this section, 20 per centum ad valorem.

49. Ambergris, enfeulage greases and floral essences by whatever method obtained; flavoring extracts, musk, grained or in pods, civet, and all natural or synthetic odoriferous or aromatic substances, preparations, and mixtures used in the manufacture of, but not marketable as, perfumes or cosmetics; all the foregoing not containing alcohol and not specially provided for in this section, 20 per centum ad valorem.

50. Plasters, healing or curative, of all kinds, and court-plaster, 15 per centum ad valorem.

51. Baryta, sulphate of, or barytes, including barytes earth, unmanufactured, 15 per centum ad valorem; manufactured, 20 per centum ad valorem; blanc-fixe, or artificial sulphate of barytes, and satin white, or artificial sulphate of lime, 20 per centum ad valorem.

52. Blues, such as Berlin, Prussian, Chinese, and all others, containing ferrocyanide of iron, in pulp, dry or ground in or mixed with oil or water, 20 per centum ad valorem; ultramarine blue, whether dry, in pulp, or ground in or mixed with oil or water, and wash blue containing ultramarine, 15 per centum ad valorem.

53. Black pigments, made from bone, ivory, or vegetable substance, by whatever name known; gas black and lampblack, dry or ground in or mixed with oil or water, 15 per centum ad valorem.

54. Chrome yellow, chrome green, and all other chromium colors in the manufacture of which lead and bichromate of potash or soda are used, in pulp, dry, or ground in or mixed with oil or water, 20 per centum ad valorem.

55. Ocher and ochery earths, sienna and sienna earths, and um-
ber and umber earths, 5 per centum ad valorem; Spanish brown, venetian red, Indian red, and colcothar or oxide of iron, not specially provided for in this section, 10 per centum ad valorem.

56. Lead pigments: Litharge, orange mineral, red lead, white lead, and all pigments containing lead, dry or in pulp, and ground or mixed with oil or water, not specially provided for in this section, 25 per centum ad valorem.

57. Lead, acetate of, white, and nitrate of, $1.32$ cents per pound; acetate of, brown, gray, or yellow, 1 cent per pound; all other lead compounds not specially provided for in this section, 20 per centum ad valorem.

58. Varnishes, including so-called gold size or japan, 10 per centum ad valorem: Provided, That spirit varnishes containing less than 10 per centum of methyl alcohol of the total alcohol contained therein, shall be dutiable at $1.32$ per gallon and 15 per centum ad valorem.

59. Vermilion reds, containing quicksilver, dry or ground in oil or water, 15 per centum ad valorem; when not containing quicksilver but made of lead or containing lead, 25 per centum ad valorem.

60. Whiting and Paris white, dry, and chalk, ground or bolted, 1½ cent per pound; whiting and Paris white, ground in oil, or putty, 15 per centum ad valorem.

61. Zinc, oxide of, and pigments containing zinc but not containing more than 5 per centum of lead, ground dry, 10 per centum ad valorem; when ground in or mixed with oil or water, lithopone and white sulphide of zinc, 15 per centum ad valorem.

62. Zinc, chloride of and sulphate of, ½ cent per pound.

63. Enamel paints, and all paints, colors, pigments, stains, crayons, including charcoal crayons or fusains, smalts, and frostings, and all ceramic and glass fluxes, glazes, enamels, and colors, whether crude, dry, mixed, or ground with water or oil or with solutions other than oil, not specially provided for in this section, 15 per centum ad valorem; all paints, colors, and pigments commonly known as artists' paints or colors, whether in tubes, pans, cakes, or other forms, 20 per centum ad valorem; all color lakes, whether dry or in pulp, not specially provided for in this section, 20 per centum ad valorem.

64. Potash: Bicarbonate of, refined, and chlorate of, ½ cent per pound; chromate and bichromate of, 1 cent per pound; nitrate of, or saltpeter, refined, $7$ per ton; permanganate of, 1 cent per pound; prussiate of, red, 2 cents per pound; yellow, 1½ cents per pound.

65. Salts and all other compounds and mixtures of which bismuth, gold, platinum, rhodium, silver, or tin constitute the element of chief value, 10 per centum ad valorem.

66. Soaps: Perfumed toilet soaps, 30 per centum ad valorem; medicinal soaps, 20 per centum ad valorem; castile soap, and unperfumed toilet soap, 10 per centum ad valorem; all other soaps
and soap powder not specially provided for in this section, 5 per centum ad valorem.

67. Soda: Benzoate of, 5 cents per pound; chlorate of, and nitrite of, ½ cent per pound; bicarbonate of, or supercarbonate of, or saleratus, and other alkalies containing 50 per centum or more of bicarbonate of soda; hydrate of, or caustic; phosphate of; hyposulphite of; sulphid of, and sulphite of, ½ cent per pound; chromate and bichromate of, and yellow prussiate of, ¾ cent per pound; borate of, or borax refined; crystal carbonate of, monohydrate, and sesquicarbonate of; sal soda, and soda crystals, ½ cent per pound; and sulphate of soda crystallized, or Glauber salts, $1 per ton.

68. Sponges: Trimmed or untrimmed but not advanced in value by chemical processes, 10 per centum ad valorem; bleached sponges and sponges advanced in value by processes involving chemical operations, manufactures of sponges, or of which sponge is the component material of chief value, not specially provided for in this section, 15 per centum ad valorem.

69. Talcum, ground talc, steatite, and French chalk, cut, powdered, washed, or pulverized, 15 per centum ad valorem.

70. Vanillin, 10 cents per ounce; vanilla beans, 30 cents per pound; tonka beans, 25 cents per pound.

SCHEDULE B.—EARTHS, EARTHENWARE, AND GLASSWARE

71. Fire brick, magnesite brick, chrome brick, and brick not specially provided for in this section, not glazed, enameled, painted, vitrified, ornamented, or decorated in any manner, 10 per centum ad valorem; if glazed, enameled, painted, vitrified, ornamented, or decorated in any manner, and bath brick, 15 per centum ad valorem.

72. Tiles, plain unglazed, one color, exceeding two square inches in size, 1½ cents per square foot; glazed, ornamented, hand-painted, enameled, vitrified, semivitrified, decorated, encaustic, ceramic mosaic, flint, spar, embossed, gold decorated, grooved and corrugated, and all other earthenware tiles and tiling, except pill tiles and so-called quarries or quarry tiles, but including tiles wholly or in part of cement, 5 cents per square foot; so-called quarries or quarry tiles, 20 per centum ad valorem; mantels, friezes, and articles of every description or parts thereof, composed wholly or in chief value of earthenware tiles or tiling, except pill tiles, 30 per centum ad valorem.

73. Lime, 5 per centum ad valorem.

74. Plaster rock or gypsum, crude, ground or calcined, pearl hardening for paper makers’ use; white, non-staining Portland cement, Keene’s cement, or other cement of which gypsum is the component material of chief value, and all other cements not specially provided for in this section, 10 per centum ad valorem.

75. Pumice stone, unmanufactured, 5 per centum ad valorem; wholly or partially manufactured, ¾ cent per pound; manufactures of pumice stone, or of which pumice stone is the component
material of chief value, not specially provided for in this section, 25 per centum ad valorem.

76. Clays or earths, unwrought or unmanufactured, not specially provided for in this section, 50 cents per ton; wrought or manufactured, not specially provided for in this section, $1 per ton; china clay or kaolin, $1.25 per ton; fuller's earth, unwrought and unmanufactured, 75 cents per ton; wrought or manufactured, $1.50 per ton; fluorspar, $1.50 per ton: Provided, That the weight of the casks or other containers shall be included in the dutiable weight.

77. Mica, unmanufactured, valued at not above 15 cents per pound, 4 cents per pound; valued above 15 cents per pound, 25 per centum ad valorem; cut mica, mica splittings, built-up mica, and all manufactures of mica, or of which mica is the component material of chief value, 30 per centum ad valorem; ground mica, 15 per centum ad valorem.

78. Common yellow, brown, or gray earthenware made of natural unwashed and unmixed clay; plain or embossed, common salt-glazed stoneware; stoneware and earthenware crucibles; all the foregoing, not ornamented, incised, or decorated in any manner, 15 per centum ad valorem; if ornamented, incised, or decorated in any manner and manufactures wholly or in chief value of such ware, not specially provided for in this section, 20 per centum ad valorem; Rockingham earthenware, 30 per centum ad valorem.

79. Earthenware and crockery ware composed of a nonvitrified absorbent body, including white granite and semiporcelain earthenware, and cream-colored ware, and stoneware, including clock cases with or without movements, pill tiles, plaques, ornaments, toys, charms, vases, statues, statuettes, mugs, cups, steins, lamps, and all other articles composed wholly or in chief value of such ware; if plain white, plain yellow, plain brown, plain red, or plain black, not painted, colored, tinted, stained, enameled, gilded, printed, ornamented or decorated in any manner, and manufactures in chief value of such ware not specially provided for in this section, 35 per centum ad valorem; if painted, colored, tinted, stained, enameled, gilded, printed, or ornamented or decorated in any manner, and manufactures in chief value of such ware not specially provided for in this section, 40 per centum ad valorem.

80. China and porcelain wares composed of a vitrified nonabsorbent body which when broken shows a vitrified or vitreous, or semivitrified or semivitreous fracture, and all bisque and parian wares, including clock cases with or without movements, plaques, ornaments, toys, charms, vases, statues, statuettes, mugs, cups, steins, lamps, and all other articles composed wholly or in chief value of such ware, if plain white, or plain brown, not painted, colored, tinted, stained, enameled, gilded, printed, or ornamented or decorated in any manner; and manufactures in chief value of such ware not specially provided for in this section, 50 per centum ad valorem; if painted, colored, tinted, stained, enameled, gilded, printed, or ornamented or decorated in any manner and manufac-
tures in chief value of such ware not specially provided for in this section, 55 per centum ad valorem.

81. Earthy or mineral substances wholly or partially manufactured and articles and wares composed wholly or in chief value of earthy or mineral substances, not specially provided for in this section, whether susceptible of decoration or not, if not decorated in any manner, 20 per centum ad valorem; if decorated, 25 per centum ad valorem; unmanufactured carbon, not specially provided for in this section, 15 per centum ad valorem; electrodes for electric furnaces, electrolytic and battery purposes, brushes, plates, and disks, all the foregoing composed wholly or in chief value of carbon, 25 per centum ad valorem; manufactures of carbon not specially provided for in this section, 20 per centum ad valorem.

82. Gas retorts, 10 per centum ad valorem; lava tips for burners, 15 per centum ad valorem; carbons for electric lighting, wholly or partly finished, made entirely from petroleum coke, 15 cents per hundred feet; if composed chiefly of lampblack or retort carbon, 40 cents per hundred feet; carbons for flaming arc lamps, not specially provided for in this section, and filter tubes, 30 per centum ad valorem; porous carbon pots for electric batteries, 15 per centum ad valorem.

83. Plain green or colored, molded or pressed, and flint, lime, or lead glass bottles, vials, jars, and covered and uncovered demi-johns, and carboys, any of the foregoing, filled or unfilled, not otherwise specially provided for in this section, and whether their contents be dutiable or free (except such as contain merchandise subject to an ad valorem rate of duty, or to a rate of duty based in whole or in part upon the value thereof which shall be dutiable at the rate applicable to their contents), 30 per centum ad valorem: Provided, That the terms bottles, vials, jars, demi-johns, and carboys, as used herein, shall be restricted to such articles when suitable for use as and of the character ordinarily employed as containers for the holding or transportation of merchandise, and not as appliances or implements in chemical or other operations.

84. Glass bottles, decanters, and all articles of every description composed wholly or in chief value of glass, ornamented or decorated in any manner, or cut, engraved, painted, decorated, ornamented, colored, stained, silvered, gilded, etched, sand blasted, frosted, or printed in any manner, or ground (except such grinding as is necessary for fitting stoppers or for purposes other than ornamentation), and all articles of every description, including bottles and bottle glassware, composed wholly or in chief value of glass blown either in a mold or otherwise; all of the foregoing, not specially provided for in this section, filled or unfilled, and whether their contents be dutiable or free, 45 per centum ad valorem: Provided, That for the purposes of this Act, bottles with cut-glass stoppers shall, with the stoppers, be deemed entireties.

85. Unpolished, cylinder, crown, and common window glass, not exceeding one hundred and fifty square inches, 7/8 of 1 cent per
§ 5291  DUTIES UPON IMPORTS

pound; above that, and not exceeding three hundred and eighty-four square inches, 1 cent per pound; above that, and not exceeding seven hundred and twenty square inches, 1½ cents per pound; above that, and not exceeding one thousand two hundred square inches, 1½ cents per pound; above that, and not exceeding two thousand four hundred square inches, 1½ cents per pound; above that, 2 cents per pound: Provided, That unpolished, cylinder, crown, and common window glass, imported in boxes, shall contain fifty square feet, as nearly as sizes will permit, and the duty shall be computed thereon according to the actual weight of glass.

86. Cylinder and crown glass, polished, not exceeding three hundred and eighty-four square inches, 3 cents per square foot; above that, and not exceeding seven hundred and twenty square inches, 4 cents per square foot; above that, and not exceeding one thousand four hundred and forty square inches, 7 cents per square foot; above that, 10 cents per square foot.

87. Fluted, rolled, ribbed, or rough plate glass, or the same containing a wire netting within itself, not including crown, cylinder, or common window glass, not exceeding three hundred and eighty-four square inches, ½ cent per square foot; all above that, 1 cent per square foot; and all fluted, rolled, ribbed, or rough plate glass, weighing over one hundred pounds per one hundred square feet, shall pay an additional duty on the excess at the same rates herein imposed: Provided, That all of the above plate glass, when ground, smoothed, or otherwise obscured, shall be subject to the same rate of duty as cast polished plate glass unsilvered.

88. Cast polished plate glass, finished or unfinished and unsilvered, or the same containing a wire netting within itself, not exceeding three hundred and eighty-four square inches, 6 cents per square foot; above that, and not exceeding seven hundred and twenty square inches, 8 cents per square foot; all above that, 12 cents per square foot.

89. Cast polished plate glass, silvered, cylinder and crown glass, silvered, and looking-glass plates exceeding in size one hundred and forty-four square inches, shall be subject to a duty of 1 cent per square foot in addition to the rates otherwise chargeable on such glass unsilvered: Provided, That no looking-glass plates or glass silvered, when framed, shall pay a less rate of duty than that imposed upon similar glass of like description not framed, but shall pay in addition thereto upon such frames the rate of duty applicable thereto when imported separate.

90. Cast polished plate glass, silvered or unsilvered, and cylinder, crown, or common window glass, silvered or unsilvered, polished or unpolished, when bent, ground, obscured, frosted, sanded, enameled, beveled, etched, embossed, engraved, flashed, stained, colored, painted, ornamented, or decorated, shall be subject to a duty of 4 per centum ad valorem in addition to the rates otherwise chargeable thereon.

91. Spectacles, eyeglasses, and goggles, and frames for the same, or parts thereof, finished or unfinished, 35 per centum ad valorem.

(2238)
92. Lenses of glass or pebble, molded or pressed, or ground and polished to a spherical, cylindrical, or prismatic form, and ground and polished plano or coquill glasses, wholly or partly manufactured, strips of glass, not more than three inches wide, ground or polished on one or both sides to a cylindrical or prismatic form, including those used in the construction of gauges, and glass slides for magic lanterns, 25 per centum ad valorem.

93. Opera and field glasses, optical instruments and frames and mountings for the same; all the foregoing not specially provided for in this section, 35 per centum ad valorem.

94. Surveying instruments, telescopes, microscopes, photographic and projection lenses, and frames and mountings for the same, 25 per centum ad valorem.

95. Stained or painted glass windows, or parts thereof, and all mirrors, not exceeding in size one hundred and forty-four square inches, with or without frames or cases; incandescent electric-light bulbs and lamps, with or without filaments; and all glass or manufactures of glass or paste or of which glass or paste is the component material of chief value, not specially provided for in this section, 30 per centum ad valorem.

96. Fusible and glass enamel, not specially provided for in this section, 20 per centum ad valorem; opal or cylinder glass tiles or tiling, 30 per centum ad valorem.

97. Marble, breccia, and onyx, in block, rough or squared only, 50 cents per cubic foot; marble, breccia, and onyx, sawed or dressed, over two inches in thickness, 75 cents per cubic foot; slabs or paving tiles of marble or onyx, containing not less than four superficial inches, if not more than one inch in thickness, 6 cents per superficial foot; if more than one inch and not more than one and one-half inches in thickness, 8 cents per superficial foot; if more than one and one-half inches and not more than two inches in thickness, 10 cents per superficial foot; if rubbed in whole or in part, 2 cents per superficial foot in addition; mosaic cubes of marble or onyx, not exceeding two cubic inches in size, if loose, 20 per centum ad valorem; if attached to paper or other material, 35 per centum ad valorem.

98. Marble, breccia, onyx, alabaster, and jet, wholly or partly manufactured into monuments, benches, vases, and other articles, or of which these substances or either of them is the component material of chief value, and all articles composed wholly or in chief value of agate, rock crystal, or other semiprecious stones, except such as are cut into shapes and forms fitting them expressly for use in the construction of jewelry, not specially provided for in this section, 45 per centum ad valorem.

99. Freestone, granite, sandstone, limestone, lava and all other stone suitable for use as monumental or building stone, except marble, breccia, and onyx, not specially provided for in this section, hewn, dressed, or polished, or otherwise manufactured, 25 per centum ad valorem; unmanufactured, or not dressed, hewn, or polished, 3 cents per cubic foot.

(2239)
100. Grindstones, finished or unfinished, $1.50 per ton.
101. Slates, slate chimney pieces, mantels, slabs for tables, roofing slates, and all other manufactures of slate, not specially provided for in this section 10 per centum ad valorem.

SCHEDULE C.—METALS AND MANUFACTURES OF

102. Chrome or chromium metal ferrochrome or ferrochromium, ferromolybdenum, ferrophosphorus, ferrotitanium, ferrotungsten, ferrovanadium, molybdenum, titanium, tantalum, tungsten or wolfram metal, and ferrosilicon, and other alloys used in the manufacture of steel, not specially provided for in this section, 15 per centum ad valorem.

103. Muck bars, bar iron, square iron, rolled or hammered, round iron, in coils or rods, bars or shapes of rolled or hammered iron not specially provided for in this section, 5 per centum ad valorem.

104. Beams, girders, joists, angles, channels, car-truck channels, TT, columns and posts or parts or sections of columns and posts, deck and bulb beams, sashes, frames, and building forms, together with all other structural shapes of iron or steel, whether plain, punched, or fitted for use, or whether assembled or manufactured, 10 per centum ad valorem.

105. Boiler or other plate iron or steel, and strips of iron or steel, not specially provided for in this section; sheets of iron or steel, common or black, of whatever dimensions, whether plain, corrugated or crimped, including crucible plate steel and saw plates, cut or sheared to shape or otherwise, or unsheared, and skelp iron or steel, whether sheared or rolled in grooves, or otherwise, 12 per centum ad valorem.

106. Iron or steel anchors or parts thereof; forgings of iron or steel, or of combined iron and steel, but not machined, tooled, or otherwise advanced in condition by any process or operation subsequent to the forging process, not specially provided for in this section, 12 per centum ad valorem; antifriction balls, ball bearings, and roller bearings, of iron or steel or other metal, finished or unfinished, and parts thereof, 35 per centum ad valorem.

107. Hoop, band, or scroll iron or steel not otherwise provided for in this section, and barrel hoops of iron or steel, wholly or partly manufactured, 10 per centum ad valorem.

108. Railway fishplates or splice bars made of iron or steel, 10 per centum ad valorem.

109. All iron or steel sheets, plates, or strips, and all hoop, band, or scroll iron or steel, when galvanized or coated with zinc, spelter, or other metals, or any alloy of those metals; sheets or plates composed of iron, steel, copper, nickel, or other metal with layers of other metal or metals imposed thereon by forging, hammering, rolling, or welding; sheets of iron or steel, polished, planished, or glanced, by whatever name designated, including such as have been pickled or cleaned by acid, or by any other material or process, or which are cold rolled, smoothed only, not polished, and such as are cold hammered, blued, brightened, tempered, or polished by any process to such perfected
surface finish or polish better than the grade of cold rolled, smoothed only; and sheets or plates of iron or steel, or taggers iron or steel, coated with tin or lead, or with a mixture of which these metals, or either of them is a component part, by the dipping or any other process, and commercially known as tin plates, terne plates, and taggers tin, and tin plates-coated with metal, and metal sheets decorated in colors or coated with nickel or other metals by dipping, printing, stenciling, or other process, 15 per centum ad valorem.

110. Steel bars, and tapered or beveled bars; mill shafting; pressed, sheared, or stamped shapes, not advanced in value or condition by any process or operation subsequent to the process of stamping; hammer molds or swaged steel; gun-barrel molds not in bars; all descriptions and shapes of dry sand, loam, or iron molded steel castings, sheets, and plates; all the foregoing, if made by the Bessemer, Siemens-Martin, open-hearth, or similar processes, not containing alloys, such as nickel, cobalt, vanadium, chromium, tungsten or wolfram, molybdenum, titanium, iridium, uranium, tantalum, boron, and similar alloys, 8 per centum ad valorem; steel ingots, cobbled ingots, blooms and slabs, die blocks or blanks; billets and bars and tapered or beveled bars; pressed, sheared, or stamped shapes not advanced in value or condition by any process or operation subsequent to the process of stamping; hammer molds or swaged steel; gun-barrel molds not in bars; alloys used as substitutes for steel in the manufacture of tools; all descriptions and shapes of dry sand, loam, or iron molded castings, sheets, and plates; rolled wire rods in coils or bars not smaller than twenty one-hundredths of one inch in diameter, and steel not specially provided for in this section, all the foregoing when made by the crucible, electric, or cementation process, either with or without alloys, and finished by rolling, hammering, or otherwise, and all steels by whatever process made, containing alloys such as nickel, cobalt, vanadium, chromium, tungsten, wolfram, molybdenum, titanium, iridium, uranium, tantalum, boron, and similar alloys, 15 per centum ad valorem.

111. Steel wool or steel shavings, 20 per centum ad valorem.

112. Grit, shot, and sand made of iron or steel, that can be used as abrasives, 30 per centum ad valorem.

113. Rivet, screw, fence, nail, and other iron or steel wire rods, whether round, oval, or square, or in any other shape, and flat rods up to six inches in width ready to be drawn or rolled into wire or strips, all the foregoing in coils or otherwise, including wire rods and iron or steel bars, cold rolled, cold drawn, cold hammered, or polished in any way in addition to the ordinary process of hot rolling or hammering, not specially provided for in this section, 10 per centum ad valorem: Provided, That all round iron or steel rods smaller than twenty one-hundredths of one inch in diameter shall be classed and dutiable as wire.

114. Round iron or steel wire; wire composed of iron, steel, or other metal, except gold or silver, covered with cotton, silk, or other material; corset clasps, corset steels, dress steels, and all flat wires

Comp. St. '13—141 (2241)
§ 5291     DUTIES UPON IMPORTS     (Tit. 33

and steel in strips not thicker than number fifteen wire gauge and
not exceeding five inches in width, whether in long or short lengths,
in coils or otherwise, and whether rolled or drawn through dies or
rolls, or otherwise produced; telegraph, telephone, and other wires
and cables composed of metal and rubber, or of metal, rubber, and
other materials; iron and steel wire coated by dipping, galvanizing,
or similar process with zinc, tin, or other metal; all other wire not
specially provided for in this section and articles manufactured wholly
or in chief value of any wire or wires provided for in this section; all
the foregoing 15 per centum ad valorem; wire heddles and healds, 25
per centum ad valorem; wire rope, 30 per centum ad valorem.

115. No article not specially provided for in this section, which is
wholly or partly manufactured from tin plate, terne plate, or the sheet,
plate, hoop, band, or scroll iron or steel herein provided for, or of
which such tin plate, terne plate, sheet, plate, hoop, band, or scroll
iron or steel shall be the material of chief value, shall pay a lower
rate of duty than that imposed on the tin plate, terne plate, or sheet,
plate, hoop, band, or scroll iron or steel from which it is made, or of
which it shall be the component thereof of chief value.

116. No allowance or reduction of duties for partial loss or damage
in consequence of rust or of discoloration shall be made upon any
description of iron or steel, or upon any article wholly or partly manu-
factured of iron or steel, or upon any manufacture of iron or steel.

117. All metal produced from iron or its ores, which is cast and
malleable, of whatever description or form, without regard to the per-
centage of carbon contained therein, whether produced by cementa-
tion, or converted, cast, or made from iron or its ores, by the crucible,
Bessemer, Clapp-Griffith, pneumatic, Thomas-Gilchrist, basic, Siemens-
Martin, or open-hearth process, or by the equivalent of either, or by
a combination of two or more of the processes, or their equivalents,
or by any fusion or other process which produces from iron or its
ores a metal either granular or fibrous in structure, which is cast and
malleable, excepting what is known as malleable-iron castings, shall be
classed and denominated as steel.

118. Anvils of iron or steel, or of iron and steel combined, by what-
ever process made, or in whatever stage of manufacture, 15 per
centum ad valorem.

119. Automobiles, valued at $2,000 or more, and automobile bodies,
45 per centum ad valorem; automobiles valued at less than $2,000,
30 per centum ad valorem; automobile chassis, and finished parts of
automobiles, not including tires, 30 per centum ad valorem.

120. Bicycles, motor cycles, and finished parts thereof, not including
tires, 25 per centum ad valorem.

121. Axles, or parts thereof, axle bars, axle blanks, or forgings for
axles, whether of iron or steel, without reference to the stage or state
of manufacture, not otherwise provided for in this section, 10 per
centum ad valorem: Provided, That, when iron or steel axles are
imported fitted in wheels, or parts of wheels, of iron or steel, they

(2242)
shall be dutiable at the same rate as the wheels in which they are fitted.

122. Blacksmiths' hammers, tongs, and sledge, track tools, wedges, and crowbars, whether of iron or steel, 10 per centum ad valorem.

123. Nuts or nut blanks, and washers, 5 per centum ad valorem; bolts of iron or steel, with or without threads or nuts, or bolt blanks, finished hinges or hinge blanks, 10 per centum ad valorem; spiral nut locks and lock washers, whether of iron or steel, 30 per centum ad valorem.

124. Card clothing not actually and permanently fitted to and attached to carding machines or to parts thereof at the time of importation, when manufactured with round iron or untempered round steel wire, 10 per centum ad valorem; when manufactured with tempered round steel wire, or with plated wire or other than round iron or steel wire, or with felt face, or wool face, or rubber face cloth containing wool, 35 per centum ad valorem.

125. Cast iron pipe of every description, cast-iron andirons, plates, stove plates, sadirons, tailor's irons, hatter's irons, and castings and vessels wholly of cast iron, including all castings of iron or cast-iron plates which have been chiseled, drilled, machined, or otherwise advanced in condition by processes or operations subsequent to the casting process but not made up into articles or finished machine parts; castings of malleable iron not specially provided for in this section; cast hollow ware, coated, glazed, or tinned, 10 per centum ad valorem.

126. Chain or chains of all kinds, made of iron or steel, not specially provided for in this section, 20 per centum ad valorem; sprocket and machine chains, 25 per centum ad valorem.

127. Lap-welded, butt-welded, seam, or jointed iron or steel tubes, pipes, flues, or stays; cylindrical or tubular tanks or vessels, for holding gas, liquids, or other material, whether full or empty; flexible metal tubing or hose, not specially provided for in this section, whether covered with wire or other material, or otherwise, including any appliances or attachments affixed thereto; welded cylindrical furnaces, tubes or flues made from plate metal, and corrugated, ribbed, or otherwise reinforced against collapsing pressure, and all other iron or steel tubes, finished, not specially provided for in this section, 20 per centum ad valorem.

128. Penknives, pocketknives, clasp knives, pruning knives, budding knives, erasers, manicure knives, and all knives by whatever name known, including such as are denominatively mentioned in this section, which have folding or other than fixed blades or attachments, and razors, all the foregoing, whether assembled but not fully finished or finished; valued at not more than $1 per dozen, 35 per centum ad valorem; valued at more than $1 per dozen, 55 per centum ad valorem: Provided, That blades, handles, or other parts of any of the foregoing knives, razors, or erasers shall be dutiable at not less than the rate herein imposed upon the knives, razors and erasers, of which they are parts. Scissors and shears, and blades for the same, finished or unfinished, 30 per centum ad valorem: Provided further, That all ar-
articles specified in this paragraph shall, when imported, have the name of the maker or purchaser and beneath the same the name of the country of origin die-sunk conspicuously and indelibly on the blade, shank, or tang of at least one or, if practicable, each and every blade thereof.

129. Sword blades, and swords and side arms, irrespective of quality or use, in part of metal, 30 per centum ad valorem.

130. Table, butchers', carving, cooks', hunting, kitchen, bread, butter, vegetable, fruit, cheese, carpenters' bench, curriers', drawing, farriers', fleshing, hay, tanners', plumbers', painters', palette, artists', and shoe knives, forks and steels, finished or unfinished, without handles. 25 per centum ad valorem; with handles, 30 per centum ad valorem: Provided, That all the articles specified in this paragraph, when imported, shall have the name of the maker or purchaser, and beneath the same the name of the country of origin indelibly stamped or branded thereon in a place that shall not be covered thereafter.

131. Files, file blanks, rasps, and floats, of all cuts and kinds, 25 per centum ad valorem.

132. Muskets, air-rifles, muzzle-loading shotguns and rifles, and parts thereof, 15 per centum ad valorem.

133. Breech-loading shotguns and rifles, combination shotguns and rifles, and parts thereof and fittings therefor, including barrels further advanced than rough bored only; pistols, whether automatic, magazine, or revolving, or parts thereof and fittings therefor, 35 per centum ad valorem.

134. Table, kitchen, and hospital utensils or other similar hollow ware composed of iron or steel, enameled or glazed with vitreous glasses; table, kitchen, and hospital utensils or other similar hollow ware composed wholly or in chief value of aluminum; all the foregoing not especially provided for in this section, 25 per centum ad valorem.

135. Needles for knitting or sewing machines, latch needles, crochet needles, and tape needles, knitting and all other needles not specially provided for in this section, bodkins of metal, and needle cases or needle books furnished with assortments of needles or combinations of needles and other articles, 20 per centum ad valorem; but no articles other than the needles which are specifically named in this section shall be dutiable as needles unless having an eye and fitted and used for carrying a thread.

136. Fishhooks, fishing rods and reels, artificial flies, artificial baits, snelled hooks, and all other fishing tackle or parts thereof, not specially provided for in this section, except fishing lines, fishing nets and seines, 30 per centum ad valorem: Provided, That any prohibition of the importation of feathers in this section shall not be construed as applying to artificial flies used for fishing.

137. Steel plates engraved, stereotype plates, electrotype plates, halftone plates, photogravure plates, photo-engraved plates, and plates of other materials, engraved for printing, plates of iron or steel engraved or fashioned for use in the production of designs, patterns, or
impressions on glass in the process of manufacturing plate or other glass, 15 per centum ad valorem; lithographic plates of stone or other material engraved, drawn, or prepared, and wet transfer paper or paper prepared wholly with glycerin, or glycerin combined with other materials, containing the imprints taken from lithographic plates, 25 per centum ad valorem.

138. Rivets, studs, and steel points, lathed, machined, or brightened, and rivets or studs for nonskidding automobile tires, and rivets of iron or steel, not specially provided for in this section, 20 per centum ad valorem.

139. Crosscut saws, mill saws, pit and drag saws, circular saws, steel band saws, finished or further advanced than tempered and polished, hand, back, and all other saws, not specially provided for in this section, 12 per centum ad valorem.

140. Screws, commonly called wood screws, made of iron or steel, 25 per centum ad valorem.

141. Umbrella and parasol ribs and stretchers, composed in chief value of iron, steel, or other metal, in frames or otherwise, and tubes for umbrellas, wholly or partially finished, 35 per centum ad valorem.

142. Wheels for railway purposes, or parts thereof, made of iron or steel, and steel-tired wheels for railway purposes, whether wholly or partly finished, and iron or steel locomotive, car, or other railway tires or parts thereof, wholly or partly manufactured, 20 per centum ad valorem: Provided, That when wheels for railway purposes, or parts thereof, of iron or steel, are imported with iron or steel axles fitted in them, the wheels and axles together shall be dutiable at the same rate as is provided for the wheels when imported separately.

143. Aluminum, aluminum scrap, and alloys of any kind in which aluminum is the component material of chief value, in crude form, 2 cents per pound; aluminum in plates, sheets, bars, strips, and rods, 3½ cents per pound; barium, calcium, magnesium, sodium, and potassium, and alloys of which said metals are the component material of chief value, 25 per centum ad valorem.

144. Antimony, as regulus or metal, and matte containing antimony but not containing more than 10 per centum of lead, 10 per centum ad valorem; antimony oxide, salts, and compounds of, 25 per centum ad valorem.

145. Argentine, albata, or German silver, unmanufactured, 15 per centum ad valorem.

146. Bronze powder, brocades, fitters, and metallics; bronze, or Dutch-metal or aluminum, in leaf, 25 per centum ad valorem.

147. Copper, in rolled plates, called braziers' copper, sheets, rods, strips, pipes, and copper bottoms, sheathing or yellow metal of which copper is the component material of chief value, and not composed wholly or in part of iron ungalvanized, 5 per centum ad valorem.

148. Gold leaf, 35 per centum ad valorem.

149. Silver leaf, 30 per centum ad valorem.

150. Tinsel wire, lame or lahn, made wholly or in chief value of gold, silver, or other metal, 6 per centum ad valorem; bullions and
metal threads, made wholly or in chief value of tinsel wire, lame or
lahn, 25 per centum ad valorem; fabrics, ribbons, beltings, toys, or
other articles, made wholly or in chief value of tinsel wire, lame or
lahn, or of tinsel wire, lame, or lahn, and india rubber, bullions, or
metal threads, not specially provided for in this section, 40 per centum
ad valorem.

151. Belt buckles, trousers buckles, waistcoat buckles, snap fasten-
ers and clasps by whatever name known, any of the foregoing made
wholly or in chief value of iron or steel; hooks and eyes, metallic;
steel trousers buttons, and metal buttons; all the foregoing and parts
thereof, not otherwise specially provided for in this section, 15 per
centum ad valorem.

152. Lead-bearing ores of all kinds containing more than 3 per cen-
tum of lead, ¾ cent per pound on the lead contained therein: Pro-
vided, That on all importations of lead-bearing ores the duties shall
be estimated at the port of entry, and a bond given in double the
amount of such estimated duties for the transportation of the ores
by common carriers bonded for the transportation of appraised or un-
appraised merchandise to properly equipped sampling or smelting es-
trainments, whether designated as bonded warehouses or otherwise.
On the arrival of the ores at such establishments they shall be sampled
according to commercial methods under the supervision of Govern-
mment officers, who shall be stationed at such establishments, and who
shall submit the samples thus obtained to a Government assayer, desig-
nated by the Secretary of the Treasury, who shall make a proper
assay of the sample and report the result to the proper customs offi-
cers, and the import entries shall be liquidated thereon, except in
case of ores that shall be removed to a bonded warehouse to be refined
for exportation as provided by law. And the Secretary of the Treas-
ury is authorized to make all necessary regulations to enforce the
provisions of this paragraph.

153. Lead dross, lead bullion or base bullion, lead in pigs and bars,
lead in any form not specially provided for in this section, old refuse
lead run into blocks and bars, and old scrap lead fit only to be reman-
ufactured; lead in sheets, pipe, shot, glaziers’ lead, and lead wire:
all the foregoing, 25 per centum ad valorem, on the lead contained
therein.

154. Metallic mineral substances in a crude state, and metals un-
wrought, whether capable of being wrought or not, not specially pro-
vided for in this section, 10 per centum ad valorem; monazite sand
and thorite; thorium, oxide of and salts of; gas, kerosene, or alcohol
mantles treated with chemicals or metallic oxides, 25 per centum ad
valorem; and gas-mantle scrap consisting in chief value of metallic
oxides, 10 per centum ad valorem.

155. Nickel, nickel oxide, alloy of any kind in which nickel is a
component material of chief value, in pigs, ingots, bars, rods, or plates,
10 per centum ad valorem; sheets or strips, 20 per centum ad valorem.

156. Pens, metallic, not specially provided for in this section, 8
cents per gross; with nib and barrel in one piece, 12 cents per gross.

(2246)
157. Penholder tips, penholders and parts thereof, gold pens, fountain pens, and stylographic pens; combination penholders, comprising penholder, pencil, rubber eraser, automatic stamp, or other attachment, 25 per centum ad valorem: Provided, That pens and penholders shall be assessed for duty separately.

158. Pins with solid heads, without ornamentation, including hair, safety, hat, bonnet, and shawl pins; any of the foregoing composed wholly of brass, copper, iron, steel, or other base metal, not plated with gold or silver and not commonly known as jewelry, 20 per centum ad valorem.

159. Quicksilver, 10 per centum ad valorem. The flasks, bottles, or other vessels in which quicksilver is imported shall be subject to the same rate of duty as they would be subjected to if imported empty.

160. Type metal, and types, 15 per centum ad valorem.

161. Watch movements, whether imported in cases or not, watch-cases and parts of watches, chronometers, box or ship, and parts thereof, lever clock movements having jewels in the escapement, and clocks containing such movements, all other clocks and parts thereof, not otherwise provided for in this section, whether separately packed or otherwise, not composed wholly or in chief value of china, porcelain, parian, bisque, or earthenware, 30 per centum ad valorem; all jewels for use in the manufacture of watches, clocks, or meters, 10 per centum ad valorem; time detectors 15 per centum ad valorem; enameled dials and dial plates for watches or other instruments, 30 per centum ad valorem: Provided, That all watch and clock dials, whether attached to movements or not, shall have indelibly painted or printed thereon the name of the country of origin, and that all watch movements, and plates, lever clock movements with jewels in the escapement, whether imported assembled or knocked down for reassembling, and cases of foreign manufacture, shall have the name of the manufacturer and country of manufacture cut, engraved, or diesunk conspicuously and indelibly on the plate of the movement and the inside of the case, respectively, and the movements and plates shall also have marked thereon by one of the methods indicated the number of jewels and adjustments, said numbers to be expressed either in words or in Arabic numerals; and if the movement is not adjusted, the word “unadjusted” shall be marked thereon by one of the methods indicated; and none of the aforesaid articles shall be delivered to the importer unless marked in exact conformity to this direction.

162. Zinc-bearing ores of all kinds, including calamine, 10 per centum ad valorem upon the zinc contained therein: Provided, That on all importations of zinc-bearing ores the duties shall be estimated at the port of entry, and a bond given in double the amount of such estimated duties for the transportation of the ores by common carriers bonded for the transportation of appraised or unappraised merchandise to properly equipped sampling or smelting establishments, whether designated as bonded warehouses or otherwise. On the arrival of the ores at such establishments they shall be sampled accord-
§ 5291

DUTIES UPON IMPORTS

(Tit. 33)

ing to commercial methods under the supervision of Government officers, who shall be stationed at such establishments, and who shall submit the samples thus obtained to a Government assayer, designated by the Secretary of the Treasury, who shall make a proper assay of the sample and report the result to the proper custom officers, and the import entries shall be liquidated thereon, except in case of ores that shall be removed to a bonded warehouse to be refined for exportation as provided by law. And the Secretary of the Treasury is authorized to make all necessary regulations to enforce the provisions of this paragraph.

163. Zinc in blocks, pigs, or sheets, and zinc dust; and old and worn-out zinc fit only to be remanufactured, 15 per centum ad valorem.

164. Bottle caps of metal, collapsible tubes, and sprinkler tops, if not decorated, colored, waxed, lacquered, enameled, lithographed, electroplated, or embossed in color, 30 per centum ad valorem; if decorated, colored, waxed, lacquered, enameled, lithographed, electroplated, or embossed in color, 40 per centum ad valorem.

165. All steam engines, steam locomotives, printing presses, and machine tools, 15 per centum ad valorem; embroidering machines, and lace-making machines, including machines for making lace curtains, nets, or nettings, 25 per centum ad valorem; machine tools as used in this paragraph shall be held to mean any machine operated by other than hand power which employs a tool for working on metal.

166. Nippers and piers of all kinds wholly or partly manufactured, 30 per centum ad valorem.

167. Articles or wares not specially provided for in this section; if composed wholly or in part of platinum, gold, or silver, and articles or wares plated with gold or silver, and whether partly or wholly manufactured, 50 per centum ad valorem; if composed wholly or in chief value of iron, steel, lead, copper, brass, nickel, pewter, zinc, aluminum, or other metal, but not plated with gold or silver, and whether partly or wholly manufactured, 20 per centum ad valorem.

SCHEDULE D.—WOOD AND MANUFACTURES OF

168. Briar root or briar wood, ivy or laurel root, and similar wood unmanufactured, or not further advanced than cut into blocks suitable for the articles into which they are intended to be converted, 10 per centum ad valorem.

169. Cedar commercially known as Spanish cedar, lignum-vitæ, lancewood, ebony, box, granadilla, mahogany, rosewood, and satinwood; all the foregoing when sawed into boards, planks, deals, or other forms, and not specially provided for in this section, and all cabinet woods not further manufactured than sawed, 10 per centum ad valorem; veneers of wood, 15 per centum ad valorem.

170. Paving posts, railroad ties, and telephone, trolley, electric-light, and telegraph poles of cedar or other woods, 10 per centum ad valorem.

171. Casks, barrels, and hogheads (empty), sugar-box shooks, and packing boxes (empty), and packing-box shooks, of wood, not specially provided for in this section, 15 per centum ad valorem.

(2248)
172. Boxes, barrels, or other articles containing oranges, lemons, limes, grapefruit, shaddocks, or pomelos, 15 per centum ad valorem: Provided, That the thin wood, so called, comprising the sides, tops and bottoms of fruit boxes of the growth and manufacture of the United States, exported as fruit box shooks, may be reimported in completed form, filled with fruit, without the payment of duty; but proof of the identity of such shooks shall be made under regulations to be prescribed by the Secretary of the Treasury.

173. Chair cane or reeds wrought or manufactured from rattans or reeds, 10 per centum ad valorem; osier or willow, including chip of and split willow, prepared for basket makers' use, 10 per centum ad valorem; manufactures of osier or willow and willow furniture, 25 per centum ad valorem.

174. Toothpicks of wood or other vegetable substance, 25 per centum ad valorem; butchers' and packers' skewers of wood, 10 cents per thousand.

175. Blinds, curtains, shades, or screens any of the foregoing in chief value of bamboo, wood, straw, or compositions of wood, not specially provided for in this section, 20 per centum ad valorem; if stained, dyed, painted, printed, polished, grained, or creosoted, and baskets in chief value of like material, 25 per centum ad valorem.

176. House or cabinet furniture wholly or in chief value of wood, wholly or partly finished, and manufactures of wood or bark, or of which wood or bark is the component material of chief value, not specially provided for in this section, 15 per centum ad valorem.

SCHEDULE E.—SUGAR, MOLASSES, AND MANUFACTURES OF

177. Sugars, tank bottoms, sirups of cane juice, melada, concentrated melada, concrete and concentrated molasses, testing by the polariscope not above seventy-five degrees, seventy-one one-hundredths of 1 cent per pound, and for every additional degree shown by the polariscopic test, twenty-six one-thousandths of 1 cent per pound additional, and fractions of a degree in proportion; molasses testing not above forty degrees, 15 per centum ad valorem; testing above forty degrees and not above fifty-six degrees, 2½ cents per gallon; testing above fifty-six degrees, 4½ cents per gallon; sugar drainings and sugar sweepings shall be subject to duty as molasses or sugar, as the case may be, according to polariscope test: Provided, That the duties imposed in this paragraph shall be effective on and after the first day of March, nineteen hundred and fourteen, until which date the rates of duty provided by paragraph two hundred and sixteen of the tariff Act approved August fifth, nineteen hundred and nine, shall remain in force: Provided, however, That so much of paragraph two hundred and sixteen of an Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes, approved August fifth, nineteen hundred and nine, as relates to the color test denominated as Number Sixteen Dutch standard in color, shall be and is hereby repealed: Provided further, That on and after

(2249)
the first day of May, nineteen hundred and sixteen, the articles
hereinbefore enumerated in this paragraph shall be admitted free
of duty.

178. Maple sugar and maple sirup, 3 cents per pound; glucose
or grape sugar, 1½ cents per pound; sugar cane in its natural
state, or unmanufactured, 15 per centum ad valorem: Provided.
That on and after the first day of May, nineteen hundred and six-
teen, the articles hereinbefore enumerated in this paragraph shall
be admitted free of duty.

179. Saccharin, 65 cents per pound.

180. Sugar candy and all confectionery not specially provided
for in this section, valued at 15 cents per pound or less, 2 cents
per pound; valued at more than 15 cents per pound, 25 per centum
ad valorem. The weight and the value of the immediate cover-
ings, other than the outer packing case or other covering, shall
be included in the dutiable weight and the value of the merchan-
dise.

SCHEDULE F.—TOBACCO AND MANUFACTURES OF

181. Wrapper tobacco, and filler tobacco when mixed or packed
with more than 15 per centum of wrapper tobacco, and all leaf
tobacco the product of two or more countries or dependencies
when mixed or packed together, if unstemmed, $1.85 per pound;
if stemmed, $2.50 per pound; filler tobacco not specially provided
for in this section, if unstemmed, 35 cents per pound; if stemmed,
50 cents per pound.

182. The term wrapper tobacco as used in this section means
the quality of leaf tobacco which has the requisite color, texture,
and burn, and is of sufficient size for cigar wrappers, and the term
filler tobacco means all other leaf tobacco. Collectors of customs
shall not permit entry to be made, except under regulations to be
prescribed by the Secretary of the Treasury, of any leaf tobacco,
unless the invoices of the same shall specify in detail the char-
acter of such tobacco, whether wrapper or filler, its origin and
quality. In the examination for classification of any imported
leaf tobacco, at least one bale, box, or package in every ten, and
at least one in every invoice, shall be examined by the appraiser
or person authorized by law to make such examination, and at
least ten hands shall be examined in each examined bale, box, or
package.

183. All other tobacco, manufactured or unmanufactured, not
specially provided for in this section, 55 cents per pound; scrap
tobacco, 35 cents per pound.

184. Snuff and snuff flour, manufactured of tobacco, ground dry,
or damp, and pickled, scented, or otherwise, of all descrip-
tions, 55 cents per pound.

185. Cigars, cigarettes, cheroots of all kinds, $4.50 per pound
and 25 per centum ad valorem, and paper cigars and cigarettes, in-
cluding wrappers, shall be subject to the same duties as are herein
imposed upon cigars.

(2250)
SCHEDULE G.—AGRICULTURAL PRODUCTS AND PROVISIONS

186. Horses and mules, 10 per centum ad valorem.
187. All live animals not specially provided for in this section, 10 per centum ad valorem.
188. Barley, 15 cents per bushel of forty-eight pounds.
189. Barley malt, 25 cents per bushel of thirty-four pounds.
190. Barley, pearled, patent, or hulled, 1 cent per pound.
191. Macaroni, vermicelli, and all similar preparations, 1 cent per pound.
192. Oats, 6 cents per bushel of thirty-two pounds; oatmeal and rolled oats, 30 cents per one hundred pounds; oat hulls, 8 cents per one hundred pounds.
193. Rice, cleaned, 1 cent per pound; uncleaned rice, or rice free of the outer hull and still having the inner cuticle on, ¾ of 1 cent per pound; rice flour, and rice meal, and rice broken which will pass through a number twelve sieve of a kind prescribed by the Secretary of the Treasury, ¾ cent per pound; paddy, or rice having the outer hull on, ¾ of 1 cent per pound.
194. Biscuits, bread, wafers, cakes, and other baked articles, and puddings, by whatever name known, containing chocolate, nuts, fruit, or confectionery of any kind, and without regard to the component material of chief value, 25 per centum ad valorem.
195. Butter and butter substitutes, 2½ cents per pound.
196. Cheese and substitutes therefor, 20 per centum ad valorem.
197. Beans, and lentils, not specially provided for, 25 cents per bushel of sixty pounds.
198. Beets of all kinds, 5 per centum ad valorem.
199. Beans, peas, prepared or preserved, or contained in tins, jars, bottles, or similar packages, including the weight of immediate coverings, 1 cent per pound; mushrooms and truffles, including the weight of immediate coverings, 2½ cents per pound.
200. Vegetables, if cut, sliced or otherwise reduced in size, or if parched or roasted, or if pickled, or packed in salt, brine, oil, or prepared in any way; any of the foregoing not specially provided for in this section, and bean stick or bean cake, miso, and similar products, 25 per centum ad valorem.
201. Pickles, including pickled nuts, sauces of all kinds, not specially provided for in this section, and fish paste or sauce, 25 per centum ad valorem.
202. Cider, 2 cents per gallon.
203. Eggs frozen or otherwise prepared or preserved in tins or other packages, not specially provided for in this section, including the weight of the immediate coverings or containers, 2 cents per pound; frozen or liquid egg albumen, 1 cent per pound.
204. Eggs, dried, 10 cents per pound; eggs, yolk of, 10 per centum ad valorem.
205. Hay, $2 per ton.
206. Honey, 10 cents per gallon.

(2251)
207. Hops, 16 cents per pound; hop extract and lupulin, 50 per centum ad valorem.

208. Garlic, 1 cent per pound; onions, 20 cents per bushel of 57 pounds.

209. Peas, green or dried, in bulk or in barrels, sacks, or similar packages, 10 cents per bushel of sixty pounds; split peas, 20 cents per bushel of sixty pounds; peas in cartons, papers, or other similar packages, including the weight of the immediate covering, ½ cent per pound.

210. Orchids, palms, azalea indica, and cut flowers, preserved or fresh, 25 per centum ad valorem; lily of the valley pips, tulips, narcissus, begonia, and gloxinia bulbs, $1 per thousand; hyacinth bulbs, astilbe, dicytra, and lily of the valley clumps, $2.50 per thousand; lily bulbs and calla bulbs or corms, $5 per thousand; herbaceous peony, Iris Kaempferri or Germanica, canna, dahlia, and amaryllis bulbs, $10 per thousand; all other bulbs, roots, root stocks, corms, and tubers, which are cultivated for their flowers or foliage, 50 cents per thousand: Provided, That all mature mother flowering bulbs imported exclusively for propagating purposes shall be admitted free of duty.

211. Stocks, cuttings, or seedlings of Myrobalan plum, Mahaleb or Mazzard cherry, Manetti multiflora and briar rose, Rosa Rugosa, three years old or less, $1 per thousand plants; stocks, cuttings, or seedlings of pear, apple, quince, and the Saint Julien plum, three years old or less, $1 per thousand plants; rose plants, budded, grafted, or grown on their own roots, 4 cents each; stocks, cuttings, and seedlings, of all fruit and ornamental trees, deciduous and evergreen shrubs and vines, and all trees, shrubs, plants, and vines commonly known as nursery or greenhouse stock, not specially provided for in this section, 15 per centum ad valorem.

212. Seeds: Castor beans or seeds, 15 cents per bushel of fifty pounds; flaxseed or linseed and other oil seeds not specially provided for in this section, 20 cents per bushel of fifty-six pounds; poppy seed, 15 cents per bushel of forty-seven pounds; mushroom spawn, and spinach seed, 1 cent per pound; canary seed, ½ cent per pound; caraway seed, 1 cent per pound; anise seed, 2 cents per pound; beet (except sugar beet), carrot, corn salad, parsley, parsnip, radish, turnip, and rutabaga seed, 3 cents per pound; cabbage, collard, kale, and kohr-rabi seed, 6 cents per pound; egg plant and pepper seed, 10 cents per pound; seeds of all kinds not specially provided for in this section, 5 cents per pound: Provided, That no allowance shall be made for dirt or other impurities in seeds provided for in this paragraph.

213. Straw, 50 cents per ton.

214. Teazels, 15 per centum ad valorem.

215. Vegetables in their natural state, not specially provided for in this section, 15 per centum ad valorem.

216. Fish, except shellfish, by whatever name known, packed in oil or in oil and other substances, in bottles, jars, kegs, tin boxes, or cans, 25 per centum ad valorem; all other fish, except shell fish, (2252)
in tin packages, not specially provided for in this section, 15 per centum ad valorem; caviar and other preserved roe of fish, 30 per centum ad valorem; fish, skinned or boned, ¾ of 1 cent per pound.

217. Apples, peaches, quinces, cherries, plums, and pears, green or ripe, 10 cents per bushel of fifty pounds; berries, edible, in their natural condition, ½ cent per quart; cranberries, 10 per centum ad valorem; all edible fruits, including berries, when dried, desicated, evaporated, or prepared in any manner, not specially provided for in this section, 1 cent per pound; comfits, sweetmeats, and fruits of all kinds preserved or packed in sugar, or having sugar added thereto or preserved or packed in molasses, spirits, or their own juices, if containing no alcohol, or containing not over 10 per centum of alcohol, 20 per centum ad valorem; if containing over 10 per centum of alcohol and not specially provided for in this section, 20 per centum ad valorem, and in addition $2.50 per proof gallon on the alcohol contained therein in excess of 10 per centum; jellies of all kinds, 20 per centum ad valorem; pineapples preserved in their own juice, 20 per centum ad valorem.

218. Figs, 2 cents per pound; plums, prunes, and prunelles, 1 cent per pound; raisins and other dried grapes, 2 cents per pound; dates, 1 cent per pound; currants, Zante or other, 1¼ cents per pound; olives, 15 cents per gallon.

219. Grapes in barrels or other packages, 25 cents per cubic foot of the capacity of the barrels or packages.

220. Lemons, limes, oranges, grapefruit, shaddocks, and pome- los in packages of a capacity of one and one-fourth cubic feet or less, 18 cents per package; in packages of capacity exceeding one and one-fourth cubic feet and not exceeding two and one-half cubic feet, 35 cents per package; in packages exceeding two and one-half and not exceeding five cubic feet, 70 cents per package; in packages exceeding five cubic feet or in bulk, ½ of 1 cent per pound.

221. Orange peel or lemon peel, preserved, candied, or dried, 1 cent per pound; coconut meat or copra desiccated, shredded, cut, or similarly prepared, and citron or citron peel, preserved, candied, or dried, 2 cents per pound.

222. Pineapples, in barrels or other packages, 6 cents per cubic foot of the capacity of the barrels or packages; in bulk, $5 per thousand.

223. Almonds, not shelled, 3 cents per pound; almonds, shelled, 4 cents per pound; apricot and peach kernels, 3 cents per pound.

224. Filberts and walnuts of all kinds, not shelled, 2 cents per pound; shelled, 4 cents per pound.

225. Peanuts or ground beans, unshelled, ¾ of 1 cent per pound; shelled, ¾ of 1 cent per pound.

226. Nuts of all kinds, shelled or unshelled, not specially provided for in this section, 1 cent per pound; but no allowance shall be made for dirt or other impurities in nuts of any kind, shelled or unshelled.

(2263)
227. Venison, and other game, 1½ cents per pound; game birds, dressed, 30 per centum ad valorem.

228. Extract of meat, not specially provided for in this section, 10 cents per pound; fluid extract of meat, 5 cents per pound, but the dutiable weight of the extract of meat and of the fluid extract of meat shall not include the weight of the packages in which the same is imported.

229. Poultry, live, 1 cent per pound; dead, or prepared in any manner, including the weight of the immediate coverings or containers, 2 cents per pound.

230. Chicory root, raw, dried, or undried, but unground, 1 cent per pound; chicory root, burnt or roasted, ground or granulated, or in rolls, or otherwise prepared, and not specially provided for in this section, 2 cents per pound.

231. Unsweetened chocolate and cocoa, prepared or manufactured, not specially provided for in this section, 8 per centum ad valorem. Sweetened chocolate and cocoa, prepared or manufactured, not specially provided for in this section, valued at 20 cents per pound or less, 2 cents per pound; valued at more than 20 cents per pound, 25 per centum ad valorem. The weight and the value of the immediate coverings, other than the outer packing case or other covering, shall be included in the dutiable weight and the value of the merchandise.

232. Cocoa butter or cocoa butterine, refined deodorized coconut oil, and all substitutes for cocoa butter, 3½ cents per pound.

233. Dandelion root, and acorns prepared, and articles used as coffee, or as substitutes for coffee not specially provided for in this section, 2 cents per pound.

234. Starch, made from potatoes, 1 cent per pound; all other starch, including all preparations, from whatever substance produced, fit for use as starch, ½ cent per pound.

235. Spices, unground: Cassia buds, cassia, and cassia vera; cinnamon and cinnamon chips; ginger root, unground and not preserved or candied; nutmegs; pepper, black or white; capsicum or red pepper, or cayenne pepper; and clove stems, 1 cent per pound; cloves, 2 cents per pound; pimento, ¾ of 1 cent per pound; sage, ½ cent per pound; mace, 8 cents per pound; Bombay or wild mace, 18 cents per pound; ground spices, in each case, the specific duty per pound enumerated in the foregoing part of this paragraph for unground spices, and in addition thereto a duty of 20 per centum ad valorem; mustard, ground or prepared, in bottles or otherwise, 6 cents per pound; all other spices not specially provided for in this section, including all herbs or herb leaves in glass or other small packages for culinary use, 20 per centum ad valorem.

236. Vinegar, 4 cents per proof gallon. The standard proof for vinegar shall be taken to be that strength which requires thirty-five grains of bicarbonate of potash to neutralize one ounce troy of vinegar.

(2254)
SCHEDULE H.—SPIRITS, WINES, AND OTHER BEVERAGES

237. Brandy and other spirits manufactured or distilled from grain or other materials, and not specially provided for in this section, $2.60 per proof gallon.

238. Each and every gauge or wine gallon of measurement shall be counted as at least one proof gallon; and the standard for determining the proof of brandy and other spirits or liquors of any kind imported shall be the same as that which is defined in the laws relating to internal revenue: Provided, That it shall be lawful for the Secretary of the Treasury, in his discretion, to authorize the ascertainment of the proof of wines, cordials, or other liquors, by distillation or otherwise, in cases where it is impracticable to ascertain such proof by the means prescribed by existing law or regulations: And provided further, That any brandy or other spirituous or distilled liquors imported in any sized cask, bottle, jug, or other packages, of or from any country, dependency, or province under whose laws similar sized casks, bottles, jugs, or other packages of distilled spirits, wine, or other beverage put up or filled in the United States are denied entrance into such country, dependency, or province, shall be forfeited to the United States; and any brandy or other spirituous or distilled liquor imported in a cask of less capacity than ten gallons from any country shall be forfeited to the United States.

239. On all compounds or preparations of which distilled spirits are a component part of chief value there shall be levied a duty not less than that imposed upon distilled spirits.

No article containing alcohol was to be classified for duty under paragraphs 9, 11, 27, 31, or 46, of Schedule A of this section, by provisions annexed to said paragraphs, ante.

No article containing more than 10 per centum of alcohol was to be classified for duty under paragraph 29 of Schedule A of this section, by a proviso annexed to said paragraph, ante.

No article containing alcohol was to be admitted free of duty, under paragraph 477 of the Free List, post.

240. Cordials, liqueurs, arrack, absinthe, kirschwasser, ratafia, and other spirituous beverages or bitters of all kinds, containing spirits, and not specially provided for in this section, $2.60 per proof gallon.

241. No lower rate or amount of duty shall be levied, collected, and paid on brandy, spirits, and other spirituous beverages than that fixed by law for the description of first proof; but it shall be increased in proportion for any greater strength than the strength of first proof, and all imitations of brandy or spirits or wines imported by any names whatever shall be subject to the highest rate of duty provided for the genuine articles respectively intended to be represented, and in no case less than $1.75 per gallon.

242. Bay rum or bay water, whether distilled or compounded, of first proof, and in proportion for any greater strength than first proof, $1.75 per gallon.
243. Champagne and all other sparkling wines, in bottles containing each not more than one quart and more than one pint, $9.60 per dozen; containing not more than one pint each and more than one-half pint, $4.80 per dozen; containing one-half pint each or less, $2.40 per dozen; in bottles or other vessels containing more than one quart each, in addition to $9.60 per dozen bottles, on the quantity in excess of one quart, at the rate of $3 per gallon; but no separate or additional duty shall be levied on the bottles.

244. Still wines, including ginger wine or ginger cordial, vermouth, and rice wine or sake, and similar beverages not specially provided for in this section, in casks or packages other than bottles or jugs, if containing 14 per centum or less of absolute alcohol, 45 cents per gallon; if containing more than 14 per centum of absolute alcohol, 60 cents per gallon. In bottles or jugs, per case of one dozen bottles or jugs, containing each not more than one quart and more than one pint, or twenty-four bottles or jugs containing each not more than one pint, $1.85 per case; and any excess beyond these quantities found in such bottles or jugs shall be subject to a duty of 6 cents per pint or fractional part thereof, but no separate or additional duty shall be assessed on the bottles or jugs. Provided, That any wines, ginger cordial, or vermouth imported containing more than 24 per centum of alcohol shall be classed as spirits and pay duty accordingly: And provided further, That there shall be no constructive or other allowance for breakage, leakage, or damage on wines, liquors, cordials, or distilled spirits, except that when it shall appear to the collector of customs from the gauger's return, verified by an affidavit by the importer to be filed within five days after the delivery of the merchandise, that a cask or package has been broken or otherwise injured in transit from a foreign port and as a result thereof a part of its contents amounting to 10 per centum or more of the total value of the contents of the said cask or package in its condition as exported, has been lost, allowance therefor may be made in the liquidation of the duties. Wines, cordials, brandy, and other spirituous liquors, including bitters of all kinds, and bay rum or bay water, imported in bottles or jugs, shall be packed in packages containing not less than one dozen bottles or jugs in each package, or duty shall be paid as if such package contained at least one dozen bottles or jugs, and in addition thereto, duty shall be collected on the bottles or jugs at the rates which would be chargeable thereon if imported empty. The percentage of alcohol in wines and fruit juices shall be determined in such manner as the Secretary of the Treasury shall by regulation prescribe.

245. Ale, porter, stout, and beer, in bottles or jugs, 45 cents per gallon, but no separate or additional duty shall be assessed on the bottles or jugs; otherwise than in bottles or jugs, 23 cents per gallon.

246. Malt extract, fluid, in casks, 23 cents per gallon; in bottles or jugs, 45 cents per gallon; solid or condensed, 45 per centum ad valorem.

(2256)
247. Cherry juice and prune juice, or prune wine, and other fruit juices, and fruit sirup, not specially provided for in this section, containing no alcohol or not more than 18 per centum of alcohol, 70 cents per gallon; if containing more than 18 per centum of alcohol, 70 cents per gallon and in addition thereto $2.07 per proof gallon on the alcohol contained therein.

248. Ginger ale, ginger beer, lemonade, soda water, and other similar beverages containing no alcohol, in plain green or colored, molded or pressed, glass bottles, containing each not more than one-half pint, 12 cents per dozen; containing each not more than one-half pint and not more than three-fourths of a pint, 18 cents per dozen; containing more than three-fourths of a pint each and not more than one and one-half pints, 28 cents per dozen; but no separate or additional duty shall be assessed on the bottles; if imported otherwise than in plain green or colored, molded or pressed, glass bottles, or in such bottles containing more than one and one-half pints each, 50 cents per gallon, and in addition thereto duty shall be collected on the bottles, or other coverings, at the rates which would be chargeable thereon if imported empty. Beverages not specially provided for containing not more than 2 per centum of alcohol shall be assessed for duty under this paragraph.

249. All mineral waters and all imitations of natural mineral waters, and all artificial mineral waters not specially provided for in this section, in bottles or jugs containing not more than one-half pint, 10 cents per dozen bottles; if containing more than one-half pint and not more than one pint, 15 cents per dozen bottles; if containing more than one pint and not more than one quart, 20 cents per dozen bottles; if imported in bottles or in jugs containing more than one quart, 18 cents per gallon; if imported otherwise than in bottles or jugs, 8 cents per gallon; and in addition thereto, on all of the foregoing, duty shall be collected upon the bottles or other containers at one-third of the rates that would be charged thereon if imported empty or separately.

SCHEDULE I.—COTTON MANUFACTURES

250. Cotton thread and carded yarn, warps, or warp yarn, whether on beams or in bundles, skeins, or cops, or in any other form, not combed, bleached, dyed, mercerized, or colored, except spool thread of cotton, crochet, darning and embroidery cottons, hereinafter provided for, shall be subject to the following rates of duty:

Numbers up to and including number nine, 5 per centum ad valorem; exceeding number nine and not exceeding number nineteen, 7½ per centum ad valorem; exceeding number nineteen and not exceeding number thirty-nine, 10 per centum ad valorem; exceeding number thirty-nine and not exceeding number forty-nine, 15 per centum ad valorem; exceeding number forty-nine and not exceeding number fifty-nine, 17½ per centum ad valorem; exceeding number fifty-nine and not exceeding number seventy-nine, 20 per centum ad valorem; exceeding number seventy-nine and not exceeding number ninety-nine, 22½ per centum ad valorem; exceeding number ninety-
§ 6291  DUTIES UPON IMPORTS (Tit. 33)
nine, 25 per centum ad valorem. When combed, bleached, dyed, mercerized, or colored, they shall be subject to the following rates of duty: Numbers up to and including number nine, 7½ per centum ad valorem; exceeding number nine and not exceeding number nineteen, 10 per centum ad valorem; exceeding number nineteen and not exceeding number thirty-nine, 12½ per centum ad valorem; exceeding number thirty-nine and not exceeding number forty-nine, 17½ per centum ad valorem; exceeding number forty-nine and not exceeding number fifty-nine, 20 per centum ad valorem; exceeding number fifty-nine and not exceeding number seventy-nine, 22½ per centum ad valorem; exceeding number seventy-nine and not exceeding number ninety-nine, 25 per centum ad valorem; exceeding number ninety-nine, 27½ per centum ad valorem. Cotton waste and flocks, manufactured or otherwise advanced in value, cotton card laps, roping, sliver, or roving, 5 per centum ad valorem.

251. Spool thread of cotton, crochet, darning, and embroidery cottons, on spools, reels, or balls, or in skeins, cones, or tubes, or in any other form 15 per centum ad valorem.

252. Cotton cloth, not bleached, dyed, colored, stained, painted, printed, woven figured, or mercerized, containing yarns the average number of which does not exceed number nine, 7½ per centum ad valorem; exceeding number nine and not exceeding number nineteen, 10 per centum ad valorem; exceeding number nineteen and not exceeding number thirty-nine, 12½ per centum ad valorem; exceeding number thirty-nine and not exceeding number forty-nine, 17½ per centum ad valorem; exceeding number forty-nine and not exceeding number fifty-nine, 20 per centum ad valorem; exceeding number fifty-nine and not exceeding number seventy-nine, 22½ per centum ad valorem; exceeding number seventy-nine and not exceeding number ninety-nine, 25 per centum ad valorem; exceeding number ninety-nine, 27½ per centum ad valorem. Cotton cloth when bleached, dyed, colored, stained, painted, printed, woven figured, or mercerized, containing yarn the average number of which does not exceed number nine, 10 per centum ad valorem; exceeding number nine and not exceeding number nineteen, 12½ per centum ad valorem; exceeding number nineteen and not exceeding number thirty-nine, 15 per centum ad valorem; exceeding number thirty-nine and not exceeding number forty-nine, 20 per centum ad valorem; exceeding number forty-nine and not exceeding number fifty-nine, 22½ per centum ad valorem; exceeding number fifty-nine and not exceeding number seventy-nine, 25 per centum ad valorem; exceeding number seventy-nine and not exceeding number ninety-nine, 27½ per centum ad valorem; exceeding number ninety-nine, 30 per centum ad valorem. Plain gauze or leno woven cotton nets or nettings shall be classified for duty as cotton cloth.

253. The term cotton cloth, or cloth, wherever used in the paragraphs of this schedule, unless otherwise specially provided for, shall be held to include all woven fabrics of cotton, in the piece, whether figured, fancy, or plain, and shall not include any article, finished or
unfinished, made from cotton cloth. In the ascertainment of the condition of the cloth or yarn upon which the duties imposed upon cotton cloth are made to depend, the entire fabric and all parts thereof shall be included. The average number of the yarn in cotton cloth herein provided for shall be obtained by taking the length of the thread or yarn to be equal to the distance covered by it in the cloth in the condition as imported, except that all clipped threads shall be measured as if continuous; in counting the threads all ply yarns shall be separated into singles and the count taken of the total singles; the weight shall be taken after any excessive sizing is removed by boiling or other suitable process.

254. Cloth composed of cotton or other vegetable fiber and silk, whether known as silk-striped sleeve linings, silk stripes, or otherwise, of which cotton or other vegetable fiber is the component material of chief value, and tracing cloth, 30 per centum ad valorem; cotton cloth filled or coated, all oilcloths (except silk oilcloths and oilcloths for floors), and cotton window hollands, 25 per centum ad valorem; waterproof cloth composed of cotton or other vegetable fiber, or of which cotton or other vegetable fiber is the component material of chief value or of cotton or other vegetable fiber and india rubber, 25 per centum ad valorem.

255. Handkerchiefs or mufflers composed of cotton, not specially provided for in this section, whether finished or unfinished, not hemmed, 25 per centum ad valorem; hemmed, or hemstitched, 30 per centum ad valorem.

256. Clothing, ready-made, and articles of wearing apparel of every description, composed of cotton or other vegetable fiber, or of which cotton or other vegetable fiber is the component material of chief value, or of cotton or other vegetable fiber and india rubber, made up or manufactured, wholly or in part, by the tailor, seamstress, or manufacturer, and not otherwise specially provided for in this section, 30 per centum ad valorem; shirt collars and cuffs of cotton, not specially provided for in this section, 30 per centum ad valorem.

257. Plushes, velvets, plush or velvet ribbons, velveteens, corduroys, and all pile fabrics, cut or uncut, whether or not the pile covers the entire surface; any of the foregoing composed wholly or in chief value of cotton or other vegetable fiber except flax, hemp, or ramie; and manufactures or articles in any form, including such as are commonly known as bias dress facings or skirt bindings, made or cut from plushes, velvets, velveteens, corduroys, or other pile fabrics composed of cotton or other vegetable fiber, except flax, hemp, or ramie, 40 per centum ad valorem.

258. Curtains, table covers, and all articles manufactured of cotton Chenille, or of which cotton Chenille is the component material of chief value, tapestries, and other Jacquard figured upholstery goods, composed wholly or in chief value of cotton or other vegetable fiber; any of the foregoing, in the piece or otherwise, 35 per centum ad valorem; all other Jacquard figured manufactures of cotton or of which cotton is the component material of chief value, 30 per centum ad valorem.
259. Stockings, hose and half hose, made on knitting machines or frames, composed of cotton or other vegetable fiber, and not otherwise specially provided for in this section, 20 per centum ad valorem.

260. Stockings, hose and half hose, selvedged, fashioned, narrowed, or shaped wholly or in part by knitting machines or frames, or knit by hand, including such as are commercially known as seamless stockings, hose and half hose, and cabled stockings, hose and half hose, all of the above composed of cotton or other vegetable fiber, finished or unfinished; if valued at not more than 70 cents per dozen pairs, 30 per centum ad valorem; if valued at more than 70 cents, and not more than $1.20 per dozen pairs, 40 per centum ad valorem; if valued at more than $1.20 per dozen pairs, 50 per centum ad valorem. Gloves by whatever process made, composed wholly or in chief value of cotton, 35 per centum ad valorem.

261. Shirts and drawers, pants, vests, union suits, combination suits, tights, sweaters, corset covers and all underwear and wearing apparel of every description, not specially provided for in this section, made wholly or in part on knitting machines or frames, or knit by hand, finished or unfinished, not including such as are trimmed with lace, imitation lace or crochet or as are embroidered and not including stockings, hose and half hose, composed of cotton or other vegetable fiber, 30 per centum ad valorem.

262. Bandings, belts, beltings, bindings, bone casings, cords, tassels, cords and tassels, garters, tire fabric or fabric suitable for use in pneumatic tires, suspenders and braces, and fabrics with fast edges not exceeding twelve inches in width, all of the foregoing made of cotton or other vegetable fiber, or of which cotton or other vegetable fiber is the component material of chief value, or of cotton or other vegetable fiber and India rubber, and not embroidered by hand or machinery; spindle banding, woven, braided, or twisted lamp, stove, or candle wicking made of cotton or other vegetable fiber; loom harness, healds, or collets made of cotton or other vegetable fiber, or of which cotton or other vegetable fiber is the component material of chief value; boot, shoe, and corset lacings made of cotton or other vegetable fiber; and labels for garments or other articles, composed of cotton or other vegetable fiber, 25 per centum ad valorem; belting for machinery made of cotton or other vegetable fiber and India rubber, or of which cotton or other vegetable fiber is the component material of chief value, 15 per centum ad valorem.

263. Cotton table damask, and manufactures of cotton table damask, or of which cotton table damask is the component material of chief value, not specially provided for in this section, 25 per centum ad valorem.

264. Towels, bath mats, quilts, blankets, polishing cloths, mop cloths, wash rags or cloths, sheets, pillowcases, and bedding, any of the foregoing made of cotton or of which cotton is the component material of chief value, not embroidered nor in part of lace and not otherwise provided for, 25 per centum ad valorem.

265. Lace window curtains, pillow shams, and bed sets, finished or
unfinished, made on the Nottingham lace-curtain machine, and composed of cotton or other vegetable fiber, when counting not more than six points or spaces between the warp threads to the inch, 35 per centum ad valorem; when counting more than six and not more than eight points or spaces to the inch, 40 per centum ad valorem; when counting nine or more points or spaces to the inch, 45 per centum ad valorem.

266. All articles made from cotton cloth, whether finished or unfinished, and all manufactures of cotton or of which cotton is the component material of chief value, not specially provided for in this section, 30 per centum ad valorem.

SCHEDULE J.—FLAX, HEMP, AND JUTE, AND MANUFACTURES OF

267. Single yarns made of jute, not finer than five lea or number, 15 per centum ad valorem; if finer than five lea or number and yarns made of jute not otherwise specially provided for in this section, 20 per centum ad valorem.

268. Cables and cordage, composed of isle, Tampico fiber, manila, sisal grass or sunn, or a mixture of these or any of them, ½ cent per pound; cables and cordage made of hemp, tarred or untarred, 1 cent per pound.

269. Threads, twines, or cords, made from yarn not finer than five lea or number, composed of flax, hemp, or ramie, or of which these substances or any of them is the component material of chief value, 20 per centum ad valorem; if made from yarn finer than five lea or number, 25 per centum ad valorem.

270. Single yarns, made of flax, hemp, or ramie, or a mixture of any of them, not finer than eight lea or number, 12 per centum ad valorem; finer than eight lea or number and not finer than eighty lea or number, 20 per centum ad valorem; finer than eighty lea or number, 10 per centum ad valorem; ramie sliver or roving, 15 per centum ad valorem.

271. Gill nettings, nets, webs, and seines made of flax, hemp, or ramie, or a mixture of any of them, or of which any of them is the component material of chief value, 25 per centum ad valorem.

272. Floor mattings, plain, fancy, or figured, including mats and rugs, manufactured from straw, round or split, or other vegetable substances, not otherwise provided for in this section, and having a warp of cotton, hemp, or other vegetable substances, including what are commonly known as China, Japan, and India straw matting, 2½ cents per square yard.

273. Carpets, carpeting, mats and rugs made of flax, hemp, jute, or other vegetable fiber (except cotton), 30 per centum ad valorem.

274. Hydraulic or flume hose, made in whole or in part of cotton, flax, hemp, ramie, or jute, 7 cents per pound.

275. Tapes composed wholly or in part of flax, woven with or without metal threads, on reels, spools, or otherwise, and designed expressly for use in the manufacture of measuring tapes, 20 per centum ad valorem.
276. Linoleum, plain, stamped, painted, or printed, including corticine and cork carpet, figured or plain, also linoleum known as granite and oak plank, 30 per centum ad valorem; inlaid linoleum, 35 per centum ad valorem; oilcloth for floors, plain, stamped, painted, or printed, 20 per centum ad valorem; mats or rugs made of oilcloth, linoleum, corticine, or cork carpet shall be subject to the same rate of duty as herein provided for oilcloth, linoleum, corticine, or cork carpet.

277. Shirt collars and cuffs, composed in whole or in part of linen, 30 per centum ad valorem.

278. Bands, bandings, belts, beltings, bindings, cords, ribbons, tapes, webs and webbings, all the foregoing composed wholly of flax, hemp, or ramie, or of flax, hemp, or ramie and india rubber, and not otherwise specially provided for in this section, 30 per centum ad valorem; wearing apparel composed wholly of flax, hemp, or ramie, or of flax, hemp, or ramie and india rubber, 40 per centum ad valorem.

279. Plain woven fabrics of single jute yarns, by whatever name known, bleached, dyed, colored, stained, painted, printed, or rendered nonflammable by any process, 10 per centum ad valorem.

280. All pile fabrics, whether or not the pile covers the entire surface, composed of flax, hemp, or ramie, or of which flax, hemp, or ramie is the component material of chief value and all articles and manufactures made from such fabrics, not specially provided for in this section, 40 per centum ad valorem.

281. Bags or sacks made from plain woven fabrics, of single jute yarns, not dyed, colored, stained, painted, printed, or bleached, 10 per centum ad valorem.

282. Handkerchiefs composed of flax, hemp, or ramie, or of which these substances, or any of them, is the component material of chief value, whether in the piece or otherwise, and whether finished or unfinished, not hemmed or hemmed only, 35 per centum ad valorem; if hemstitched, or imitation hemstitched, or revered, or with drawn threads, but not embroidered, initialed, or in part of lace, 40 per centum ad valorem.

283. Plain woven fabrics, not including articles, finished or unfinished, of flax, hemp, or ramie, or of which these substances or any of them is the component material of chief value, including such as is known as shirting cloth, 30 per centum ad valorem.

284. All woven articles, finished or unfinished, and all manufactures of flax, hemp, ramie, or other vegetable fiber, or of which these substances, or any of them, is the component material of chief value, not specially provided for in this section, 35 per centum ad valorem.

285. Isle or tampico, when dressed, dyed, or combed, 20 per centum ad valorem.

SCHEDULE K.—WOOL, AND MANUFACTURES OF

286. Combed wool or tops and roving or roping made wholly or in part of wool or camel’s hair, and on other wool and hair which have been advanced in any manner or by any process of manufacture be-
yond the washed or scoured condition, not specially provided for in this section, 8 per centum ad valorem.

287. Yarns made wholly or in chief value of wool, 18 per centum ad valorem.

288. Cloths, knit fabrics, felts not woven, and all manufactures of every description made, by any process, wholly or in chief value of wool, not specially provided for in this section, 35 per centum ad valorem; cloths if made in chief value of cattle hair or horse hair, not specially provided for in this section, 25 per centum ad valorem; plushes, velvets, and all other pile fabrics, cut or uncut, woven or knit, whether or not the pile covers the entire surface, made wholly or in chief value of wool, and articles made wholly or in chief value of such plushes, velvets, or pile fabrics, 40 per centum ad valorem; stockings, hose and half hose, made on knitting machines or frames, composed wholly or in chief value of wool, not specially provided for in this section, 20 per centum ad valorem; stockings, hose and half hose, selvedged, fashioned, narrowed, or shaped wholly or in part by knitting machines or frames, or knit by hand, including such as are commercially known as seamless stockings, hose and half hose, and clocked stockings, hose and half hose, gloves and mittens, all of the above, composed wholly or in chief value of wool, if valued at not more than $1.20 per dozen pairs, 30 per centum ad valorem; if valued at more than $1.20 per dozen pairs, 40 per centum ad valorem; press cloth composed of camel's hair, not specially provided for in this section, 10 per centum ad valorem.

289. Blankets and flannels, composed wholly or in chief value of wool, 25 per centum ad valorem; flannels composed wholly or in chief value of wool, valued at above 50 cents per pound, 30 per centum ad valorem.

290. Women's and children's dress goods, coat linings, Italian cloths, bunting, and goods of similar description and character, composed wholly or in chief value of wool, and not specially provided for in this section, 35 per centum ad valorem.

291. Clothing, ready-made, and articles of wearing apparel of every description, including shawls whether knitted or woven, and knitted articles of every description made up or manufactured wholly or in part, and not specially provided for in this section, composed wholly or in chief value of wool, 35 per centum ad valorem.

292. Webnings, suspenders, braces, bandings, belts, beltings,bindings, cords, cords and tassels, and ribbons; any of the foregoing made of wool or of which wool or wool and india rubber are the component materials of chief value, and not specially provided for in this section, 35 per centum ad valorem.

293. Aubusson, Axminster, moquette, and chenille carpets, figured or plain, and all carpets or carpeting of like character or description, 35 per centum ad valorem.

294. Saxony, Wilton, and Tournay velvet carpets, figured or plain, and all carpets or carpeting of like character or description, 30 per centum ad valorem.
295. Brussels carpets, figured or plain, and all carpets or carpeting of like character or description, 25 per centum ad valorem.

296. Velvet and tapestry velvet carpets, figured or plain, printed on the warp or otherwise, and all carpets or carpeting of like character or description, 30 per centum ad valorem.

297. Tapestry Brussels carpets, figured or plain, and all carpets or carpeting of like character or description, printed on the warp or otherwise, 20 per centum ad valorem.

298. Treble ingraine, three-ply, and all-chain Venetian carpets, 20 per centum ad valorem.

299. Wool Dutch and two-ply ingraine carpets, 20 per centum ad valorem.

300. Carpets of every description, woven whole for rooms, and Oriental, Berlin, Aubusson, Axminster, and similar rugs, 50 per centum ad valorem.

301. Druggets and bockings, printed, colored, or otherwise, 20 per centum ad valorem.

302. Carpets and carpeting of wool or cotton, or composed in part of either of them, not specially provided for in this section, and on mats, matting, and rugs of cotton, 20 per centum ad valorem.

303. Mats, rugs for floors, screens, covers, hassocks, bed sides, art squares, and other portions of carpets or carpeting, composed wholly or in part of wool, and not specially provided for in this section, shall be subjected to the rate of duty herein imposed on carpets or carpeting of like character or description.

304. Whenever in this section the word “wool” is used in connection with a manufactured article of which it is a component material, it shall be held to include wool or hair of the sheep, camel or other like animals, whether manufactured by the woolen, worsted, felt, or any other process.

305. Hair of the Angora goat, alpaca, and other like animals, and all hair on the skin of such animals, 15 per centum ad valorem.

306. Tops made from the hair of the Angora goat, alpaca, and other like animals, 20 per centum ad valorem.

307. Yarns made of the hair of the Angora goat, alpaca, and other like animals, 25 per centum ad valorem.

308. Cloth and all manufactures of every description made by any process, wholly or in chief value of the hair of the Angora goat, alpaca, and other like animals, not specially provided for in this section, 40 per centum ad valorem.

309. Plushes, velvets, and all other pile fabrics, cut or uncut, woven or knit, whether or not the pile covers the entire surface, made wholly or partly of the hair of the Angora goat, alpaca, or other like animals, and articles made wholly or in chief value of such plushes, velvets, or pile fabrics, 45 per centum ad valorem.

310. The provisions of this schedule (K) shall be effective on and after the first day of January, nineteen hundred and fourteen, until which date the rates of duty now provided by Schedule K of the existing law shall remain in full force and effect.

(2264)
SCHEDULE L.—SILKS AND SILK GOODS

311. Silk partially manufactured from cocoons or from waste silk and not further advanced or manufactured than carded or combed silk, and silk noils exceeding two inches in length, 20 cents per pound.
312. Spun silk or schappe silk yarn, 35 per centum ad valorem.
313. Thrown silk not more advanced than singles, tram, or organzine, sewing silk, twist, floss, and silk threads or yarns of every description made from raw silk, 15 per centum ad valorem.
314. Velvets, plushes, chenilles, velvet or plush ribbons, or other pile fabrics, composed of silk or of which silk is the component material of chief value, 50 per centum ad valorem.
315. Handkerchiefs or mufflers composed wholly or in chief value of silk, finished or unfinished; if cut, not hemmed or hemmed only, 40 per centum ad valorem; if hemstitched or imitation hemstitched, or reverend, or having drawn threads, but not embroidered in any manner with an initial letter, monogram, or otherwise, 50 per centum ad valorem.
316. Ribbons, bandings, including hatbands, belts, beltings, bindings, all of the foregoing not exceeding twelve inches in width and if with fast edges, bone casings, braces, cords, cords and tassels, garters, suspenders, tubings, and webs and webblings; all the foregoing made of silk or of which silk or silk and India rubber are the component materials of chief value, if not embroidered in any manner, and not specially provided for in this section, 45 per centum ad valorem.
317. Clothing, ready-made, and articles of wearing apparel of every description, including knit goods, made up or manufactured in whole or in part by the tailor, seamstress, or manufacturer; all the foregoing composed of silk or of which silk or silk and India rubber are the component materials of chief value, not specially provided for in this section, 50 per centum ad valorem.
318. Woven fabrics, in the piece or otherwise, of which silk is the component material of chief value, and all manufactures of silk, or of which silk or silk and India rubber are the component materials of chief value, not specially provided for in this section, 45 per centum ad valorem.
319. Yarns, threads, filaments of artificial or imitation silk, or of artificial or imitation horsehair, by whatever name known, and by whatever process made, 35 per centum ad valorem; beltings, cords, tassels, ribbons, or other articles or fabrics composed wholly or in chief value of yarns, threads, filaments, or fibers of artificial or imitation silk or of artificial or imitation horsehair, or of yarns, threads, filaments or fibers of artificial or imitation silk, or of artificial or imitation horsehair and India rubber, by whatever name known, and by whatever process made, 60 per centum ad valorem.

SCHEDULE M.—PULP, PAPERS, AND BOOKS

320. Sheathing paper, pulpboard in rolls, not laminated, roofing felt, common paper-box board, not coated, lined, embossed, printed
or decorated in any manner, nor cut into shapes for boxes or other articles, 5 per centum ad valorem.

321. Filter masse or filter stock, composed wholly or in part of wood pulp, wood flour, cotton or other vegetable fiber, 20 per centum ad valorem.

322. Printing paper (other than paper commercially known as handmade or machine handmade paper, Japan paper, and imitation Japan paper by whatever name known), unsized, sized, or glued, suitable for the printing of books and newspapers, but not for covers or bindings, not specially provided for in this section, valued above $2.50 cents per pound, 12 per centum ad valorem: Provided, however, That if any country, dependency, province, or other subdivision of government shall impose any export duty, export license fee, or other charge of any kind whatsoever (whether in the form of additional charge or license fee or otherwise) upon printing paper, wood pulp, or wood for use in the manufacture of wood pulp, there shall be imposed upon printing paper, valued above $2.50 cents per pound, when imported either directly or indirectly from such country, dependency, province, or other subdivision of government, an additional duty equal to the amount of the highest export duty or other export charge imposed by such country, dependency, province, or other subdivision of government, upon either printing paper, or upon an amount of wood pulp, or wood for use in the manufacture of wood pulp necessary to manufacture such printing paper.

323. Papers commonly known as copying paper, stereotype paper, bibulous paper, tissue paper, pottery paper, letter-copying books, wholly or partly manufactured, crépe paper and filtering paper; and articles manufactured from any of the foregoing papers or of which such paper is the component material of chief value, 30 per centum ad valorem.

324. Papers wholly or partly covered with metal leaf or with gelatin or flock, papers with white coated surface or surfaces, calender plate finished, hand dipped marbleized paper, parchment paper, and lithographic transfer paper not printed, 25 per centum ad valorem; papers with coated surface or surfaces suitable for covering boxes, not specially provided for, whether or not embossed or printed except by lithographic process, 40 per centum ad valorem; all other paper with coated surface or surfaces not specially provided for in this section; uncoated papers, gummed, or with the surface or surfaces wholly or partly decorated or covered with a design, fancy effect, pattern, or character, whether produced in the pulp or otherwise except by lithographic process, cloth-lined or reenforced papers, and grease-proof and imitation parchment papers which have been superfcalendered and rendered transparent or partially so, by whatever name known, all other grease-proof and imitation parchment papers, not specially provided for in this section, by whatever name known, bags, envelopes, and all other articles composed wholly or in chief value of any of the foregoing papers, not specially provided for in this section, and all boxes of
paper or papier mâché or wood covered with any of the foregoing papers or covered or lined with cotton or other vegetable fiber, 35 per centum ad valorem; albuminized or sensitized paper or paper otherwise surface-coated for photographic purposes, 25 per centum ad valorem; plain basic papers for albuminizing, sensitizing, baryta coating, or for photographic or solar printing processes, 15 per centum ad valorem.

325. Pictures, calendars, cards, booklets, labels, flaps, cigar bands, placards, and other articles composed wholly or in chief value of paper lithographically printed in whole or in part from stone, gelatin, metal, or other material (except boxes, views of American scenery or objects, and music, and illustrations when forming a part of a periodical or newspaper or of bound or unbound books, accompanying the same, not specially provided for in this section) shall pay duty at the following rates: Labels and flaps printed in less than eight colors (bronze printing to be counted as two colors), but not printed in whole or in part of metal leaf, 15 cents per pound; cigar bands of the same number of colors and printings, 20 cents per pound; labels and flaps printed in eight or more colors (bronze printing to be counted as two colors), but not printed in whole or in part of metal leaf, 20 cents per pound; cigar bands of the same number of colors and printings, 25 cents per pound; labels and flaps printed in whole or in part of metal leaf, 35 cents per pound; cigar bands printed in whole or in part of metal leaf, 40 cents per pound; booklets, 7 cents per pound; all other articles not exceeding eight one-thousandths of an inch in thickness, 15 cents per pound; exceeding eight one-thousandths of an inch and not exceeding twenty one-thousandths of an inch in thickness and less than thirty-five square inches cutting size in dimension, 5 cents per pound; exceeding eight and not exceeding twenty one-thousandths of an inch in thickness and thirty-five square inches and over cutting size in dimension, 7 cents per pound; exceeding twenty one-thousandths of an inch in thickness, 5 cents per pound, providing that in the case of articles hereinbefore specified the thickness which shall determine the rate of duty to be imposed shall be that of the thinnest lithographed material found in the article, but for the purpose of this paragraph the thickness of lithographs mounted or pasted upon paper, cardboard, or other material shall be the combined thickness of the lithograph and the foundation upon which it is mounted or pasted; books of paper or other material for children's use, lithographically printed in whole or in part, not exceeding in weight twenty-four ounces each, 4 cents per pound; fashion magazines or periodicals printed in whole or in part by lithographic process or decorated by hand, 6 cents per pound; booklets, wholly or in chief value of paper, decorated in whole or in part by hand or by spraying, whether or not lithographed, 10 cents per pound; decals in ceramic colors, weighing not over one hundred pounds per thousand sheets, on a basis of twenty by thirty inches in di-

(2267)
§ 5291

DUTIES UPON IMPORTS

(Tit. 33)

Dimensions, 60 cents per pound; all other decalcomanias, except toy decalcomanias, 15 cents per pound.

326. Writing, letter, note, drawing, handmade paper and paper commercially known as handmade paper and machine handmade paper, japan paper and imitation japan paper by whatever name known, and ledger, bond, record, tablet, typewriter, and onionskin and imitation onionskin papers calendered or uncalendered, whether or not any such paper is ruled, bordered, embossed, printed, lined, or decorated in any manner, 25 per centum ad valorem.

327. Paper envelopes, folded or flat, not specially provided for in this section, 15 per centum ad valorem.

328. Jacquard designs on ruled paper, or cut on Jacquard cards, and parts of such designs, cardboard and bristol board, press boards or press paper, paper hangings with paper back or composed wholly or in chief value of paper, and wrapping paper not specially provided for in this section, 25 per centum ad valorem.

329. Books of all kinds, bound or unbound including blank books, slate books and pamphlets, engravings, photographs, etchings, maps, charts, music in books or sheets, and printed matter, all the foregoing, and not specially provided for in this section, 15 per centum ad valorem. Views of any landscape, scene, building, place or locality in the United States, on cardboard or paper, not thinner than eight one-thousandths of an inch, by whatever process printed or produced, including those wholly or in part produced by either lithographic or photogelatin process (except show cards), bound or unbound, or in any other form, 20 cents per pound; thinner than eight one-thousandths of an inch, $2 per thousand.

330. Photograph, autograph, scrap, post-card, and postage-stamp albums, wholly or partly manufactured, 25 per centum ad valorem.

331. Playing cards, 60 per centum ad valorem.

332. Papers or cardboard, cut, die cut, or stamped into designs or shapes, such as initials, monograms, lace, borders, or other forms, and all post cards, not including American views, plain, decorated, embossed, or printed, except by lithographic process, and all papers and manufactures of paper or of which paper is the component material of chief value, not specially provided for in this section, 25 per centum ad valorem.

SCHEDULE N.—SUNDRIES

333. Beads and spangles of all kinds, including imitation pearl beads, not threaded or strung, or strung loosely on thread for facility in transportation only, 35 per centum ad valorem; curtains, and other articles not embroidered nor appliquéd and not specially provided for in this section, composed wholly or in chief value of beads or spangles made of glass or paste, gelatin, metal, or other material, 50 per centum ad valorem.

334. Ramie hat braids, 40 per centum ad valorem; manufactures of ramie hat braids, 50 per centum ad valorem.

(2268)
335. Braids, plaits, laces, and willow sheets or squares, composed wholly or in chief value of straw, chip, grass, palm leaf, willow, osier, rattan, real horsehair, cuba bark, or manila hemp, suitable for making or ornamenting hats, bonnets, or hoods, not bleached, dyed, colored, or stained, 15 per centum ad valorem; if bleached, dyed, colored, or stained, 20 per centum ad valorem; hats, bonnets, and hoods composed wholly or in chief value of straw, chip, grass, palm leaf, willow, osier, rattan, cuba bark, or manila hemp, whether wholly or partly manufactured, but not blocked or trimmed, 25 per centum ad valorem; if blocked or trimmed, and in chief value of such materials, 40 per centum ad valorem. But the terms "grass" and "straw" shall be understood to mean these substances in their natural form and structure, and not the separated fiber thereof.

336. Brooms, made of broom corn, straw, wooden fibre, or twigs, 15 per centum ad valorem; brushes and feather dusters of all kinds, and hair pencils in quills or otherwise, 35 per centum ad valorem.

337. Bristles, sorted, bunched, or prepared, 7 cents per pound.

338. Button forms of lastings, mohair or silk cloth, or other manufactures of cloth, woven or made in patterns of such size, shape, or form as to be fit for buttons exclusively, and not exceeding eight inches in any one dimension, 10 per centum ad valorem.

339. Buttons of vegetable ivory in sizes thirty-six lines and larger, 35 per centum ad valorem; below thirty-six lines, 45 per centum ad valorem; buttons of shell and pearl in sizes twenty-six lines and larger, 25 per centum ad valorem; below twenty-six lines, 45 per centum ad valorem; agate buttons and shoe buttons, 15 per centum ad valorem; parts of buttons and button molds or blanks, finished or unfinished, and all collar and cuff buttons and studs composed wholly of bone, mother-of-pearl, ivory, or agate, all the foregoing and buttons not specially provided for in this section, 40 per centum ad valorem.

340. Cork bark, cut into squares, cubes, or quarters, 4 cents per pound; manufactured cork stoppers, over three-fourths of an inch in diameter, measured at the larger end, and manufactured cork disks, wafers, or washers, over three-sixteenths of an inch in thickness, 12 cents per pound; manufactured cork stoppers, three-fourths of an inch or less in diameter, measured at the larger end, and manufactured cork disks, wafers, or washers, three-sixteenths of an inch or less in thickness, 15 cents per pound; cork, artificial, or cork substitutes manufactured from cork waste, or granulated corks, and not otherwise provided for in this section, 3 cents per pound; cork insulation, wholly or in chief value of granulated cork, in slabs, boards, planks, or molded forms, 3½ cent per pound; cork paper, 35 per centum ad valorem; manufactures wholly or in chief value of cork or of cork bark, or of artificial cork or bark substitutes, granulated or ground cork, not specially provided for in this section, 30 per centum ad valorem.

341. Dice, dominoes, draughts, chessmen, chess balls, and bil-
liard, pool, bagatelle balls, and poker chips, of ivory, bone, or other materials, 50 per centum ad valorem.

342. Dolls, and parts of dolls, doll heads, toy marbles of whatever materials composed, and all other toys, and parts of toys, not composed of china, porcelain, parian, bisque, earthen or stone ware, and not specially provided for in this section, 35 per centum ad valorem.

343. Emery grains and emery, manufactured, ground, pulverized, or refined, 1 cent per pound; emery wheels, emery files, emery paper, and manufactures of which emery or corundum is the component material of chief value, 20 per centum ad valorem.

344. Firecrackers of all kinds, 6 cents per pound; bombs, rockets, Roman candles, and fireworks of all descriptions, not specially provided for in this section, 10 cents per pound; the weight on all the foregoing to include all coverings, wrappings, and packing material.

345. Matches, friction or lucifer, of all descriptions, per gross of one hundred and forty-four boxes, containing not more than one hundred matches per box, 3 cents per gross; when imported otherwise than in boxes containing not more than one hundred matches each, 3/4 of 1 cent per one thousand matches; wax matches, fuses, wind matches, and all matches in books or folders or having a stained, dyed, or colored stick or stem, and tapers consisting of a wick coated with an inflammable substance, and night lights, 25 per centum ad valorem: Provided, That in accordance with section ten of "An Act to provide for a tax upon white phosphorus matches, and for other purposes," approved April ninth, nineteen hundred and twelve, white phosphorus matches manufactured wholly or in part in any foreign country shall not be entitled to enter at any of the ports of the United States, and the importation thereof is hereby prohibited: Provided further, That nothing in this Act contained shall be held to repeal or modify said Act to provide for a tax upon white phosphorus matches, and for other purposes, approved April ninth, nineteen hundred and twelve.

346. Percussion caps, cartridges, and cartridge shells empty, 15 per centum ad valorem; blasting caps, $1 per thousand; mining, blasting, or safety fuses of all kinds, 15 per centum ad valorem.

347. Feathers and downs, on the skin or otherwise, crude or not dressed, colored, or otherwise advanced or manufactured in any manner, not specially provided for in this section, 20 per centum ad valorem; when dressed, colored, or otherwise advanced or manufactured in any manner, and not suitable for use as millinery ornaments, including quilts of down and manufactures of down, 40 per centum ad valorem; artificial or ornamental feathers suitable for use as millinery ornaments, artificial and ornamental fruits, grains, leaves, flowers, and stems or parts thereof, of whatever material composed, not specially provided for in this section, 60 per centum ad valorem; boas, boutonnieres, wreaths, and all articles not specially provided for in this section, composed wholly or in chief value of any of the feathers, flowers, leaves, or other material
herein mentioned, 60 per centum ad valorem: Provided, That the importation of aigrettes, egret plumes or so-called osprey plumes, and the feathers, quills, heads, wings, tails, skins, or parts of skins, of wild birds, either raw or manufactured, and not for scientific or educational purposes, is hereby prohibited; but this provision shall not apply to the feathers or plumes of ostriches, or to the feathers or plumes of domestic fowls of any kind.

348. Furs dressed on the skin, not advanced further than dyeing, 30 per centum ad valorem; plates and mats of dog and goat skins, 10 per centum ad valorem; manufactures of furs, further advanced than dressing and dyeing, when prepared for use as material, joined or sewed together, including plates, linings, and crosses, except plates and mats of dog and goat skins, and articles manufactured from fur not specially provided for in this section, 40 per centum ad valorem; articles of wearing apparel of every description partly or wholly manufactured, composed of or of which hides or skins of cattle of the bovine species, or of the dog or goat are the component material of chief value, 15 per centum ad valorem; articles of wearing apparel of every description partly or wholly manufactured, composed of or of which fur is the component material of chief value, not specially provided for in this section, 50 per centum ad valorem; furs not on the skin, prepared for hatters’ use, including fur skins carroted, 15 per centum ad valorem.

349. Fans of all kinds, except common palm-leaf fans, 50 per centum ad valorem.

350. Gun wads of all descriptions, 10 per centum ad valorem.

351. Human hair, raw, 10 per centum ad valorem; if cleaned or commercially known as drawn, but not manufactured, 20 per centum ad valorem; manufactures of human hair, including nets and nettings, or of which human hair is the component, material of chief value, not specially provided for in this section, 35 per centum ad valorem.

352. Hair, curled, suitable for beds or mattresses, 10 per centum ad valorem.

353. Haircloth, known as “crinoline” cloth, 6 cents per square yard; haircloth, known as “hair seating,” and hair press cloth, 15 cents per square yard.

354. Hats, bonnets, or hoods, for men’s, women’s, boys’, or children’s wear, trimmed or untrimmed, including bodies, hoods, plates, forms or shapes, for hats or bonnets, composed wholly or in chief value of fur of the rabbit, beaver, or other animals, 45 per centum ad valorem.

355. Indurated fiber ware and manufactures of pulp, not specially provided for in this section, 25 per centum ad valorem.

356. Jewelry, commonly or commercially so known, valued above 20 cents per dozen pieces, 60 per centum ad valorem; rope, curb, cable, and fancy patterns of chain not exceeding one-half inch in diameter, width, or thickness, valued above 30 cents per yard; and articles valued above 20 cents per dozen pieces designed to be worn on apparel or carried on or about or attached to the person,
such as and including buckles, card cases, chains, cigar cases, cigar cutters, cigar holders, cigarette cases, cigarette holders, coin holders, collar, cuff, and dress buttons, combs, match boxes, mesh bags and purses, millinery, military, and hair ornaments, pins, powder cases, stamp cases, vanity cases, and like articles; all the foregoing and parts thereof, finished or partly finished, composed of metal, whether or not enameled, washed, covered, or plated, including rolled gold plate, and whether or not set with precious or semiprecious stones, pearls, cameos, coral, or amber, or with imitation precious stones or imitation pearls, 60 per centum ad valorem. Stampings, galleries, mesh and other materials of metal, whether or not set with glass or paste, finished or partly finished, separate or in strips or sheets, suitable for use in the manufacture of any of the foregoing articles in this paragraph, 50 per centum ad valorem.

357. Diamonds and other precious stones, rough or uncut, and not advanced in condition or value from their natural state by cleaving, splitting, cutting, or other process, whether in their natural form or broken, and bort; any of the foregoing not set, and diamond dust, 10 per centum ad valorem; pearls and parts thereof, drilled or undrilled, but not set or strung; diamonds, coral, rubies, cameos, and other precious stones and semiprecious stones, cut but not set, and suitable for use in the manufacture of jewelry, 20 per centum ad valorem; imitation precious stones, including pearls and parts thereof, for use in the manufacture of jewelry, doublets, artificial, or so-called synthetic or reconstructed pearls and parts thereof, rubies, or other precious stones, 20 per centum ad valorem.

358. Laces, lace window curtains not specially provided for in this section, coach, carriage, and automobile laces, and all lace articles of whatever yarns, threads, or filaments composed; handkerchiefs, napkins, wearing apparel, and all other articles or fabrics made wholly or in part of lace or of imitation lace of any kind; embroideries, wearing apparel, handkerchiefs, and all articles or fabrics embroidered in any manner by hand or machinery, whether with a plain or fancy initial, monogram, or otherwise, or tamboured, appliquéd, or scalloped by hand or machinery, any of the foregoing by whatever name known; edgings, insertings, galloons, nets, nettings, veils, veilings, neck rufflings, ruchings, tuckings, floucings, flutings, quillings, ornaments; braids, loom woven and ornamented in the process of weaving, or made by hand, or on any braid machine, knitting machine, or lace machine, and not specially provided for; trimmings not specially provided for; woven fabrics or articles from which threads have been omitted, drawn, punched, or cut, and with threads introduced after weaving, forming figures or designs, not including straight hemstitching; and articles made in whole or in part of any of the foregoing fabrics or articles; all of the foregoing of whatever yarns, threads, or filaments composed, 60 per centum ad valorem.

359. Chamois skins, 15 per centum ad valorem; pianoforte, piano-
forte action, enameled upholstery leather, and glove leathers, 10 per centum ad valorem.

360. Bags, baskets, belts, satchels, card cases, pocketbooks, jewel boxes, portfolios, and other boxes and cases, made wholly of or in chief value of leather or parchment, not jewelry, and manufactures of leather or parchment, or of which leather or parchment is the component material of chief value, not specially provided for in this section, 30 per centum ad valorem; any of the foregoing permanently fitted and furnished with traveling, bottle, drinking, dining, luncheon and similar sets, 35 per centum ad valorem.

361. Gloves, not specially provided for in this section, made wholly or in chief value of leather, whether wholly or partly manufactured, shall pay duty at the following rates, the lengths stated in each case being the extreme length when stretched to their full extent, namely:

362. Men’s, women’s, or children’s “glace” finish, Schmaschen (of sheep origin), not over fourteen inches in length, $1 per dozen pairs; over fourteen inches in length, 25 cents additional per dozen pairs for each inch in excess of fourteen inches.

363. All other women’s or children’s gloves wholly or in chief value of leather, not over fourteen inches in length, $2 per dozen pairs; over fourteen inches in length, 25 cents additional per dozen pairs for each inch in excess of fourteen inches; all men’s leather gloves not specially provided for in this section, $2.50 per dozen pairs.

364. In addition to the foregoing rates there shall be paid the following cumulative duties: On all leather gloves when lined with cotton or other vegetable fiber, 25 cents per dozen pairs; when lined with a knitted glove or when lined with silk, leather, or wool, 50 cents per dozen pairs; when lined with fur, $2 per dozen pairs; on all piqué and piqueaseam gloves, 25 cents per dozen pairs.

365. Glove trunks, with or without the usual accompanying pieces, shall pay 75 per centum of the duty provided for the gloves in the fabrication of which they are suitable.

366. Manufactures of catgut, or whip gut, or worm gut, including strings for musical instruments; any of the foregoing or of which these substances or any of them is the component material of chief value, not specially provided for in this section, 20 per centum ad valorem.

367. Manufactures of amber, asbestos, bladders, or wax, or of which these substances or any of them is the component material of chief value, not specially provided for in this section, 10 per centum ad valorem; yarn and woven fabrics composed wholly or in chief value of asbestos, 20 per centum ad valorem.

368. Manufactures of bone, chip, grass, horn, india rubber or gutta-percha, palm leaf, quills, straw, weeds, or whalebone, or of which any of them is the component material of chief value not otherwise specially provided for in this section, shall be subject to the following rates: Manufactures of india rubber or gutta-percha, commonly known as druggists’ sundries, 15 per centum ad valorem; manufactures of india rubber or gutta-percha, not specially provided for in

Comp.St. '13—143 (2273)
this section, 10 per centum ad valorem; palm leaf, 15 per centum ad
valorem; bone, chip, horn, quills, and whalebone, 20 per centum ad
valorem; grass, straw, and weeds, 25 per centum ad valorem; combs
composed wholly of horn or of horn and metal, 25 per centum ad
valorem. The terms “grass” and “straw” shall be understood to
mean these substances in their natural state, and not the separated
fibers thereof.

369. Ivory tusks in their natural state, or cut vertically across the
grain only, with the bark left intact, 20 per centum ad valorem; manu-
factures of ivory or vegetable ivory, or of which either of these
substances is the component material of chief value, not specially
provided for in this section, 35 per centum ad valorem; manufactures
of mother-of-pearl and shell, plaster of Paris, papier-mâché, and vul-
canized india rubber known as “hard rubber,” or of which these sub-
stances or any of them is the component material of chief value, not
specially provided for in this section, 25 per centum ad valorem;
shells engraved, cut, ornamented, or otherwise manufactured, 25 per
centum ad valorem.

370. Masks, of whatever material composed, 25 per centum ad
valorem.

371. Matting made of cocoa fiber or rattan, 5 cents per square
yard; mats made of cocoa fiber or rattan, 3 cents per square foot.

372. Moss and sea grass, eelgrass, and seaweeds, if manufactured
or dyed, 10 per centum ad valorem.

373. Musical instruments or parts thereof, pianoforte actions and
parts thereof, cases for musical instruments, pitch pipes, tuning forks,
tuning hammers, and metronomes; strings for musical instruments,
composed wholly or in part of steel or other metal, all the foregoing,
35 per centum ad valorem.

374. Phonographs, gramaphones, graphophones, and similar articles,
or parts thereof, 25 per centum ad valorem.

375. Violin rosin, in boxes or cases or otherwise, 10 per centum ad
valorem.

376. Works of art, including paintings in oil or water-colors, past-
tels, pen and ink drawings, or copies, replicas or reproductions of any
of the same, statuary, sculptures, or copies, replicas or reproductions
thereof, and etchings and engravings, not specially provided for in
this section, 15 per centum ad valorem.

377. Peat moss, 50 cents per ton.

378. Pencils of paper or wood, or other material not metal, filled
with lead or other material, pencils of lead, 36 cents per gross, but in
no case shall any of the foregoing pay less than 25 per centum ad
valorem; slate pencils, 25 per centum ad valorem.

379. Pencil leads not in wood or other material, 10 per centum ad
valorem.

380. Photographic cameras, and parts thereof, not specially pro-
vided for in this section, photographic dry plates, not specially pro-
vided for in this section, 15 per centum ad valorem; photograph-
film negatives, imported in any form, for use in any way in connec-

(2274)
tion with moving-picture exhibits, or for making or reproducing pictures for such exhibits, exposed but not developed, 2 cents per linear or running foot; if exposed and developed, 3 cents per linear or running foot; photographic-film positives, imported in any form, for use in any way in connection with moving-picture exhibits, including herein all moving, motion, motophotography or cinematography film pictures, prints, positives or duplicates of every kind and nature, and of whatever substance made, 1 cent per linear or running foot: Provided, however, That all photographic-films imported under this section shall be subject to such censorship as may be imposed by the Secretary of the Treasury.

381. Pipes and smokers' articles: Common tobacco pipes and pipe bowls made wholly of clay, 25 per centum ad valorem; other pipes and pipe bowls of whatever material composed, and all smokers' articles whatsoever, not specially provided for in this section, including cigarette books, cigarette-book covers, pouches for smoking or chewing tobacco, and cigarette paper in all forms, except cork paper, 50 per centum ad valorem; meerschaum, crude or unmanufactured, 20 per centum ad valorem.

382. Plush, black, known commercially as hatters' plush, composed of silk, or of silk and cotton, such as is used for making men's hats, 10 per centum ad valorem.

383. Umbrellas, parasols, and sunshades covered with material other than paper or lace, not embroidered or appliquéd, 35 per centum ad valorem. Sticks for umbrellas, parasols, or sunshades, and walking canes, finished or unfinished, 30 per centum ad valorem.

384. Waste, not specially provided for in this section, 10 per centum ad valorem.

385. That there shall be levied, collected, and paid on the importation of all raw or unmanufactured articles not enumerated or provided for in this section, a duty of 10 per centum ad valorem, and on all articles manufactured, in whole or in part, not provided for in this section, a duty of 15 per centum ad valorem.

386. That each and every imported article, not enumerated in this section, which is similar, either in material, quality, texture, or the use to which it may be applied, to any article enumerated in this section as chargeable with duty, shall pay the same rate of duty which is levied on the enumerated article which it most resembles in any of the particulars before mentioned; and if any nonenumerated article equally resembles two or more enumerated articles on which different rates of duty are chargeable, there shall be levied on such nonenumerated article the same rate of duty as is chargeable on the article which it resembles paying the highest rate of duty; and on articles not enumerated, manufactured of two or more materials, the duty shall be assessed at the highest rate at which the same would be chargeable if composed wholly of the component material thereof of chief value; and the words "component material of chief value," wherever used in this section, shall be held to mean that component material which shall exceed in value any other single component material of the article;

(2275)
and the value of each component material shall be determined by the ascertained value of such material in its condition as found in the article. If two or more rates of duty shall be applicable to any imported article, it shall pay duty at the highest of such rates.

FREE LIST

That on and after the day following the passage of this Act, except as otherwise specially provided for in this Act, the articles mentioned in the following paragraphs shall, when imported into the United States or into any of its possessions (except the Philippine Islands and the islands of Guam and Tutuila), be exempt from duty:

387. Acids: Acetic or pyrolineous, arsenic or arsenious, carbolic, chromic, fluoric, hydrofluoric, hydrochloric or muriatic, nitric, phos- phoric, phthalic, prussic, silicic, sulphuric or oil of vitriol, and valerianic.

388. Aconite.
389. Acorns, raw, dried or undried, but unground.
390. Agates, unmanufactured.
391. Agricultural implements: Plows, tooth and disk harrows, headers, harvesters, reapers, agricultural drills and planters, mowers, horserakes, cultivators, thrashing machines, cotton gins, machinery for use in the manufacture of sugar, wagons and carts, and all other agricultural implements of any kind and description, whether specifically mentioned herein or not, whether in whole or in parts, including repair parts.
392. Albumen, not specially provided for in this section.
393. Alcohol, methyl or wood.
394. Alizarin, natural or synthetic, and dyes obtained from alizarin, anthracene, and carbazol.
395. Ammonia, sulphate of, perchlorate of, and nitrate of.
396. Antimony ore and stibnite containing antimony, but only as to the antimony content.

397. Any animal imported by a citizen of the United States, specially for breeding purposes, shall be admitted free, whether intended to be used by the importer himself or for sale for such purposes: Provided, That no such animal shall be admitted free unless pure bred of a recognized breed, and duly registered in a book of record recognized by the Secretary of Agriculture for that breed: And provided further, That the certificate of such record and pedigree of such animal shall be produced and submitted to the Department of Agriculture, duly authenticated by the proper custodian of such book of record, together with an affidavit of the owner, agent, or importer that the animal imported is the identical animal described in said certificate of record and pedigree. The Secretary of Agriculture may prescribe such regulations as may be required for determining the purity of breeding and the identity of such animal: And provided further, That the collectors of customs shall require a certificate from the Department of Agriculture stating that such animal is pure bred of a recog-
nized breed and duly registered in a book of record recognized by the Secretary of Agriculture for that breed.

The Secretary of the Treasury may prescribe such additional regulations as may be required for the strict enforcement of this provision.

Horses, mules, and asses straying across the boundary line into any foreign country, or driven across such boundary line by the owner for temporary pastureage purposes only, together with their offspring, shall be dutiable unless brought back to the United States within six months, in which case they shall be free of duty, under regulations to be prescribed by the Secretary of the Treasury: And provided further, That the provisions of this Act shall apply to all such animals as have been imported and are in quarantine or otherwise in the custody of customs or other officers of the United States at the date of the taking effect of this Act.

398. Animals brought into the United States temporarily for a period not exceeding six months, for the purpose of breeding, exhibition or competition for prizes offered by any agricultural, polo, or racing association; but a bond shall be given in accordance with regulations prescribed by the Secretary of the Treasury; also teems of animals, including their harness and tackle, and the wagons or other vehicles actually owned by persons emigrating from foreign countries to the United States with their families, and in actual use for the purpose of such emigration under such regulations as the Secretary of the Treasury may prescribe; and wild animals intended for exhibition in zoological collections for scientific and educational purposes, and not for sale or profit.

399. Annatto, roucou, rocoa, or orleans, and all extracts of.

400. Antitoxins, vaccine virus, and all other serums derived from animals and used for therapeutic purposes.

401. Apatite.

402. Arrowroot in its natural state and not manufactured.

403. Arsenic and sulphide of arsenic, or orpiment.

404. Articles the growth, produce, or manufacture of the United States, when returned after having been exported, without having been advanced in value or improved in condition by any process of manufacture or other means; steel boxes, casks, barrels, carboys, bags, and other containers or coverings of American manufacture exported filled with American products, or exported empty and returned filled with foreign products, including shooks and staves when returned as barrels or boxes; also quicksilver flasks or bottles, iron or steel drums of either domestic or foreign manufacture, used for the shipment of acids, or other chemicals, which shall have been actually exported from the United States; but proof of the identity of such articles shall be made, under general regulations to be prescribed by the Secretary of the Treasury, but the exemption of bags from duty shall apply only to such domestic bags as may be imported by the exporter thereof, and if any such articles are subject to internal-revenue tax at the time of exportation, such tax shall be proved to have been paid before exportation and not refunded; photographic dry plates
§ 5291  DUTIES UPON IMPORTS  (Tit. 33)

or films of American manufacture (except moving-picture films), exposed abroad, whether developed or not, and films from moving-picture machines, light struck or otherwise damaged, or worn out, so as to be unsuitable for any other purpose than the recovery of the constituent materials, provided the basic films are of American manufacture, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury; articles exported from the United States for repairs may be returned upon payment of a duty upon the value of the repairs at the rate at which the article itself would be subject if imported under conditions and regulations to be prescribed by the Secretary of the Treasury: Provided, That this paragraph shall not apply to any article upon which an allowance of drawback has been made, the reimportation of which is hereby prohibited except upon payment of duties equal to the drawbacks allowed; or to any article manufactured in bonded warehouse and exported under any provision of law:

And provided further, That when manufactured tobacco which has been exported without payment of internal-revenue tax shall be reimported it shall be retained in the custody of the collector of customs until internal-revenue stamps in payment of the legal duties shall be placed thereon: And provided further, That the provisions of this paragraph shall not apply to animals made dutiable under the provisions of paragraph 397.

405. Asafetida.
406. Asbestos, unmanufactured.
407. Ashes, wood and lye of, and beet-root ashes.
408. Bagging for cotton, gunny cloth, and similar fabrics, suitable for covering cotton, composed of single yarns made of jute, jute butts, seg, Russian seg, New Zealand tow, Norwegian tow, aloe, mill waste, cotton tares, or other material not bleached, dyed, colored, stained, painted, or printed, not exceeding sixteen threads to the square inch, counting the warp and filling, and weighing not less than fifteen ounces per square yard; plain woven fabrics of single jute yarns by whatever name known, not bleached, dyed, colored, stained, printed, or rendered noninflammable by any process; and waste of any of the above articles suitable for the manufacture of paper.

410. Barks, cinchona or other, from which quinine may be extracted.
411. Bauxite or beauxite, crude, not refined or otherwise advanced in condition from its natural state.
412. Beeswax.
413. Bells, broken, and bell metal, broken and fit only to be remanufactured.
414. Bibles, comprising the books of the Old or New Testament, or both, bound or unbound.
415. All binding twine manufactured from New Zealand hemp, manila, istle or Tampico fiber, sisal grass, or sunn, or a mixture of any two or more of them, of single ply and measuring not exceeding seven hundred and fifty feet to the pound.

(2278)
416. Birds and land and water fowls, not specially provided for in this section.
417. Biscuits, bread, and wafers, not specially provided for in this section.
418. Bismuth.
419. Bladders, and all integuments, tendons and intestines of animals and fish sounds, crude, dried or salted for preservation only, and unmanufactured, not specially provided for in this section.
420. Blood, dried, not specially provided for in this section.
421. Blue vitriol, or sulphate of copper; acetate and subacetate of copper, or verdigris.
422. Bolting cloths composed of silk, imported expressly for milling purposes, and so permanently marked as not to be available for any other use. Press cloths composed of camel's hair, imported expressly for oil milling purposes, and marked so as to indicate that it is for such purposes, and cut into lengths not to exceed seventy-two inches and woven in widths not under ten inches nor to exceed fifteen inches and weighing not less than one-half pound per square foot.
423. Bones, crude, burned, calcined, ground, steamed, but not otherwise manufactured, and bone dust or animal carbon, bone meal, and bone ash.
424. Books, engravings, photographs, etchings, bound or unbound, maps and charts imported by authority or for the use of the United States or for the use of the Library of Congress.
425. Books, maps, music, engravings, photographs, etchings, lithographic prints, bound or unbound, and charts, which shall have been printed more than twenty years at the date of importation, and all hydrographic charts, and publications issued for their subscribers or exchanges by scientific and literary associations or academies, or publications of individuals for gratuitous private circulation, not advertising matter, and public documents issued by foreign governments.
426. Books and pamphlets printed wholly or chiefly in languages other than English; also books and music, in raised print, used exclusively by the blind, and all textbooks used in schools and other educational institutions; Braille tablets, cubarithms, special apparatus and objects serving to teach the blind, including printing apparatus, machines, presses, and types for the use and benefit of the blind exclusively.
427. Books, maps, music; engravings, photographs, etchings, lithographic prints, and charts, specially imported, not more than two copies in any one invoice, in good faith, for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe.
428. Books, libraries, usual and reasonable furniture, and similar household effects of persons or families from foreign countries, all the
foregoing if actually used abroad by them not less than one year, and
not intended for any other person or persons, nor for sale.

429. Borax, crude and unmanufactured, and borate of lime, soda,
and other borate material, crude and unmanufactured, not otherwise
provided for in this section.

430. Brass, old brass, clippings from brass or Dutch metal, all the
foregoing, fit only for remanufacture.

431. Brazilian pebble, unwrought or unmanufactured.

432. Bristles, crude, not sorted, bunched, or prepared.

433. Bromin.

434. Broom corn.

435. Buckwheat and buckwheat flour.

436. Bullion, gold or silver.

437. Burgundy pitch.

438. Burrstones, manufactured or bound up into millstones.

439. Cadmium.

440. Calcium, acetate of, brown and gray, and chloride of, crude;
calcium carbide and calcium nitrate.

441. Cash registers, linotype and all typesetting machines, sewing
machines, typewriters, shoe machinery, cream separators valued at
not exceeding $75, sand-blast machines, sludge machines, and tar and
oil spreading machines used in the construction and maintenance of
roads and in improving them by the use of road preservatives, all the
foregoing whether imported in whole or in parts, including repair
parts.

442. Castor or castoreum.

443. Catgut, whip gut, or worm gut, unmanufactured.

444. Cement, Roman, Portland, and other hydraulic.

445. Cerium, cerite, or cerium ore.

446. Chalk, crude, not ground, bolted, precipitated, or otherwise
manufactured.

447. Charcoal, blood char, bone char, or bone black, not suitable
for use as a pigment.

448. Chromate of iron or chromic ore.

449. Chromium, hydroxide of, crude.

450. Common blue clay and Gross-Almerode glass-pot clay, in cases
or casks, suitable for the manufacture of crucibles and glass melting
pots or tank blocks.

451. Coal, anthracite, bituminous, culm, slack, and shale; coke;
compositions used for fuel in which coal or coal dust is the component
material of chief value, whether in briquets or other form.

452. Coal tar, crude, pitch of coal tar, wood or other tar, dead or
creosote oil, and products of coal tar known as anthracene and an-
thracene oil, naphthalin, phenol, and cresol.

453. Cobalt and cobalt ore.

454. Cocculus indicus.

455. Cochineal.

456. Cocoa, or cacao, crude, and fiber, leaves, and shells of.

457. Coffee.

(2280)
458. Coins of gold, silver, copper, or other metal.
459. Coir, and coir yarn.
460. Composition metal of which copper is the component material of chief value, not specially provided for in this section.
461. Copper ore; regulus of, and black or coarse copper, and copper cement; old copper, fit only for remanufacture, copper scale, clippings from new copper, and copper in plates, bars, ingots, or pigs, not manufactured or specially provided for in this section.
462. Copperas, or sulphate of iron.
463. Coral, marine, uncut, and unmanufactured.
464. Cork wood, or cork bark, unmanufactured, and cork waste, shavings, and cork refuse of all kinds.
465. Corn or maize.
466. Corn meal.
467. Cotton, and cotton waste or flocks.
468. Cryolite, or kryolith.
469. Cudbear.
470. Curling stones, or quoits, and curling-stone handles.
471. Curry, and curry powder.
472. Cuttlefish bone.
473. Dandelion roots, raw, dried or undried, but unground.
474. Glaziers' and engravers' diamonds, unset, miners' diamonds.
475. Divi-divi.
476. Dragon's blood.
477. Drugs, such as barks, beans, berries, buds, bulbs, bulbous roots, excrescences, fruits, flowers, dried fibers, dried insects, grains, gums, gum resin, herbs, leaves, lichens, mosses, logs, roots, stems, vegetables, seeds (aromatic, not garden seeds), seeds of morbid growth, weeds; any of the foregoing which are natural and uncompounded drugs and not edible and not specially provided for in this section, and are in a crude state, not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process or treatment whatever beyond that essential to the proper packing of the drugs and the prevention of decay or deterioration pending manufacture: Provided, That no article containing alcohol shall be admitted free of duty under this paragraph.
478. Eggs of poultry, birds, fish, and insects (except fish roe preserved for food purposes): Provided, however, That the importation of eggs of game birds or eggs of birds not used for food, except specimens for scientific collections, is prohibited: Provided further, That the importation of eggs of game birds for purposes of propagation is hereby authorized, under rules and regulations to be prescribed by the Secretary of the Treasury.
479. Emery ore and corundum, and crude artificial abrasives, not specially provided for.
480. Fans, common palm-leaf, plain and not ornamented or decorated in any manner, and palm leaf in its natural state, not colored, dyed, or otherwise advanced or manufactured.
481. Felt, adhesive, for sheathing vessels.

(2281)
§ 5291  DUTIES UPON IMPORTS (Tit. 33)

482. Fibrin, in all forms.

483. Fresh-water fish, and all other fish not otherwise specially provided for in this section.

484. Fish skins.

485. Flax straw, flax, not hackled or dressed; flax hackled, known as "dressed line," tow of flax and flax noils; hemp, and tow of hemp; hemp hackled, known as "line of hemp."

486. Flint, flints, and flint stones, unground.

487. Fossils.

488. Fruits or berries, green, ripe, or dried, and fruits in brine, not specially provided for in this section.

489. Fruit plants, tropical and semitropical, for the purpose of propagation or cultivation.

490. Fulminates, fulminating powder, and other like articles not specially provided for in this section.

491. Furs and fur skins, undressed.

492. Gambier.

493. Glass enamel, white, for watch and clock dials.

494. Glass plates or disks, rough-cut or unwrought, for use in the manufacture of optical instruments, spectacles, and eyeglasses, and suitable only for such use: Provided, however, That such disks exceeding eight inches in diameter may be polished sufficiently to enable the character of the glass to be determined.

495. Gloves, made wholly or in chief value of leather made from horsehides, pigskins, and cattle hides of cattle of the bovine species, excepting calf skins, whether wholly or partly manufactured.

496. Goldbeaters' moulds and goldbeaters' skins.

497. Grasses and fibers: Istle or Tampico fiber, jute, jute butts, manila, sisal grass, sunn, and all other textile grasses or fibrous vegetable substances, not dressed or manufactured in any manner, and not specially provided for in this section.

498. Grease, fats, vegetable tallow, and oils (excepting fish oils), not chemically compounded, such as are commonly used in soap making or in wire drawing, or for stuffing or dressing leather, not specially provided for in this section.

499. Guano, manures, and all substances used only for manure, including basic slag, ground or ungound, and calcium cyanamid or lime nitrogen.

500. Gum: Amber in chips valued at not more than 50 cents per pound, copal, damar, and kauri.

501. Gunpowder, and all explosive substances, not specially provided for in this section, used for mining, blasting, and artillery purposes.


503. Hair of horse, cattle, and other animals, cleaned or uncleaned, drawn or undrawn, but unmanufactured, not specially provided for in this section.

504. Hide cuttings, raw, with or without hair, and all other glue stock.

505. Hide rope.

(2282)
506. Hides of cattle, raw or uncured, or dry, salted, or pickled.
507. Horns and whetstones.
508. Hoofs, unmanufactured.
509. Hoop or band iron, or hoop or band steel, cut to lengths, or wholly or partly manufactured into hoops or ties, coated or not coated with paint or any other preparation, with or without buckles or fastenings, for baling cotton or any other commodity.
510. Hop roots for cultivation.
511. Horns and parts of, including horn strips and tips, unmanufactured.
512. Ice.
513. India rubber, crude, and milk of, and scrap or refuse india rubber, fit only for remanufacture.
514. Indigo, natural or synthetic, dry or suspended in water, and dyes obtained from indigo.
515. Iodine, crude, or resublimed.
516. Ipecac.
517. Iridium, osmium, palladium, rhodium, and ruthenium and native combinations thereof with one another or with platinum.
518. Iron ore, including manganiferous iron ore, and the dross or residuum from burnt pyrites; iron in pigs, iron kentledge, spiegel-eisen, wrought iron and scrap and scrap steel; but nothing shall be deemed scrap iron or scrap steel except second-hand or waste or refuse iron or steel fit only to be remanufactured; ferromanganese; iron in slabs, blooms, loops or other forms less finished than iron bars, and more advanced than pig iron, except castings, not specially provided for in this section.
519. Jalap.
520. Jet, unmanufactured.
521. Joss stick or joss light.
522. Junk, old.
523. Kelp.
524. Kieserite.
525. Kyanite, or cyanite, and kainite.
526. Lac dye, crude, seed, button, stick, and shell.
527. Lactarene or casein.
528. Lard, lard compounds, and lard substitutes.
529. Lava, unmanufactured.
530. All leather not specially provided for in this section and leather board or compressed leather; leather cut into shoe uppers or vamps or other forms suitable for conversion into boots or shoes; boots and shoes made wholly or in chief value of leather; leather shoe laces, finished or unfinished; harness, saddles, and saddlery, in sets or in parts, finished or unfinished.
531. Leeches.
532. Lemon juice, lime juice, and sour orange juice, all the foregoing containing not more than 2 per centum of alcohol.
533. Lifeboats and life-saving apparatus specially imported by societies and institutions incorporated or established to encourage the saving of human life.
§ 5291  DUTIES UPON IMPORTS

534. Limestone-rock asphalt; asphaltum, and bitumen.
535. Lithographic stones, not engraved.
536. Litmus, prepared or not prepared.
537. Loadstones.
538. Madder and munjeet, or Indian madder, ground or prepared, and all extracts of.
539. Magnesite, crude or calcined, not purified.
540. Manganese, oxide and ore of.
541. Manna.
542. Manuscripts.
543. Marrow, crude.
544. Marshmallow or althea root, leaves or flowers, natural or unmanufactured.

545. Meats: Fresh beef, veal, mutton, lamb, and pork; bacon and hams; meats of all kinds, prepared or preserved, not specially provided for in this section: Provided, however, That none of the foregoing meats shall be admitted into the United States unless the same is healthful, wholesome and fit for human food and contains no dye, chemical, preservative, or ingredient which renders the same unhealthful, unwholesome or unfit for human food, and unless the same also complies with the rules and regulations made by the Secretary of Agriculture, and that, after entry into the United States in compliance with said rules and regulations, said imported meats shall be deemed and treated as domestic meats within the meaning of and shall be subject to the provisions of the Act of June thirtieth, nineteen hundred and six (Thirty-fourth Statutes at Large, page six hundred and seventy-four), commonly called the Meat Inspection Amendment, and the Act of June thirtieth, nineteen hundred and six, (Thirty-fourth Statutes at Large, page seven hundred and sixty-eight), commonly called the Food and Drugs Act, and that the Secretary of Agriculture be and hereby is authorized to make rules and regulations to carry out the purposes of this paragraph, and that in such rules and regulations the Secretary of Agriculture may prescribe the terms and conditions for the destruction for food purposes of all such meats offered for entry and refused admission into the United States unless the same be exported by the consignee within the time fixed therefor in such rules and regulations.

The provisions of the Meat Inspection Amendment of Act June 30, 1906, c. 3913, 34 Stat. 674, mentioned in this paragraph, were re-enacted and included in the provisions of the similar act of the next following year, Act March 4, 1907, c. 2007, post, § 8681.

The Food and Drugs Act of June 30, 1906, c. 3915, also mentioned in this section is set forth post, §§ 8717-8728.

546. Medals of gold, silver, or copper, and other articles actually bestowed as trophies or prizes, and received and accepted as honorary distinctions.

547. Milk and cream, including milk or cream preserved or condensed, or sterilized by heating or other processes, and sugar of milk.

(2284)
548. Mineral salts obtained by evaporation from mineral waters, when accompanied by a duly authenticated certificate and satisfactory proof showing that they are in no way artificially prepared and are only the product of a designated mineral spring.

549. Minerals, crude, or not advanced in value or condition by refining or grinding, or by other process of manufacture, not specially provided for in this section.

550. Miners' rescue appliances, designed for emergency use in mines where artificial breathing is necessary in the presence of poisonous gases, to aid in the saving of human life, and miners' safety lamps, and parts, accessories, and appliances for cleaning, repairing, and operating all the foregoing.

551. Models of inventions and of other improvements in the arts, to be used exclusively as models and incapable of any other use.

552. Moss, seaweeds, and vegetable substances, crude or unmanufactured, not otherwise specially provided for in this section.

553. Myrobalans fruit.

554. Cut nails and cut spikes of iron or steel, horseshoe nails, horseshoe nail rods, hobnails, and all other wrought-iron or steel nails not specially provided for in this section; wire staples, wire nails made of wrought iron or steel, spikes, and horse, mule, or ox shoes, of iron or steel, and cut tacks, brads, or sprigs.

555. Needles, hand sewing and darning, and needles for shoe machines.

556. Newspapers and periodicals; but the term “periodicals” as herein used shall be understood to embrace only unbound or paper-covered publications issued within six months of the time of entry, devoted to current literature of the day, or containing current literature as a predominant feature, and issued regularly at stated periods, as weekly, monthly, or quarterly, and bearing the date of issue.

557. Nuts: Marrons, crude; coconuts in the shell and broken coconut meat or copra, not shredded, desiccated, or prepared in any manner; palm nuts and palm-nut kernels.

558. Nux vomica.

559. Oakum.

560. Oil cake.

561. Oils: Birch tar, cajeput, coconut, cod, cod liver, cottonseed, croton, ichthyol, juglandium, palm, palm-kernel, perilla, soya-bean, and olive oil rendered unfit for use as food or for any but mechanical or manufacturing purposes, by such means as shall be satisfactory to the Secretary of the Treasury and under regulations to be prescribed by him; Chinese nut oil, nut oil or oil of nuts not specially provided for in this section; petroleum, crude or refined, and all products obtained from petroleum, including kerosene, benzine, naphtha, gasoline, paraffin, and paraffin oil; and also spermaceti, whale, and other fish oils of American fisheries, and all fish and other products of such fisheries.

562. Oleo stearin.
563. Orange and lemon peel, not preserved, candied, or dried.

564. Orchil, or orchil liquid.

565. Ores of gold, silver, or nickel, and nickel matte; ores of the platinum metals; sweepings of gold and silver.

566. Paper stock, crude, of every description, including all grasses, fibers, rags, waste, including jute, hemp and flax waste, shavings, clippings, old paper, rope ends, waste rope, and waste bagging, and all other waste not specially provided for in this section, including old gunny cloth and old gunny bags, used chiefly for paper making.

567. Printing paper (other than paper commercially known as handmade or machine handmade paper, japan paper, and imitation japan paper by whatever name known), unsized, sized, or glued, suitable for the printing of books and newspapers, but not for covers or bindings, not specially provided for in this section, valued at not above 2½ cents per pound, decalcomania paper not printed.

568. Parchment and vellum.


570. Pearl, mother of, and shells, not sawed, cut, flaked, polished, or otherwise manufactured, or advanced in value from the natural state.

571. Personal effects, not merchandise, of citizens of the United States dying in foreign countries.

572. Pewter and Britannia metal, old, and fit only to be remanufactured.

573. Philosophical and scientific apparatus, utensils, instruments, and preparations, including bottles and boxes containing the same, specially imported in good faith for the use and by order of any society or institution incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, or seminary of learning in the United States, or any State or public library, and not for sale, and articles solely for experimental purposes, when imported by any society or institution of the character herein described, subject to such regulations as the Secretary of the Treasury shall prescribe.

574. Phosphates, crude.

575. Phosphorus.

576. Photographic and moving-picture films, sensitized but not exposed or developed.

577. Plants, trees, shrubs, roots, seed cane, and seeds, imported by the Department of Agriculture or the United States Botanic Garden.

578. Platinum, unmanufactured or in ingots, bars, plates, sheets, wire, sponge, or scrap, and vases, retorts, and other apparatus, vessels, and parts thereof, composed of platinum, for chemical uses.

579. Plumbago.

(2286)
580. Potash: Crude, or "black salts"; carbonate of; cyanide of; sulphate of; hydrate of, when not containing more than 15 per centum of caustic soda; nitrate of, or saltpeter, crude; and nitrate of.

581. Potatoes, and potatoes dried, desiccated, or otherwise prepared, not specially provided for in this section: Provided, That any of the foregoing specified articles shall be subject to a duty of 10 per centum ad valorem when imported directly or indirectly from a country, dependency, or other subdivision of government which imposes a duty on such articles imported from the United States.

582. Professional books, implements, instruments, and tools of trade, occupation, or employment in the actual possession of persons emigrating to the United States owned and used by them abroad; but this exemption shall not be construed to include machinery or other articles imported for use in any manufacturing establishment, or for any other person or persons, or for sale, nor shall it be construed to include theatrical scenery, properties, and apparel; but such articles brought by proprietors or managers of theatrical exhibitions arriving from abroad, for temporary use by them in such exhibitions, and not for any other person, and not for sale, and which have been used by them abroad, shall be admitted free of duty under such regulations as the Secretary of the Treasury may prescribe; but bonds shall be given for the payment to the United States of such duties as may be imposed by law upon any and all such articles as shall not be exported within six months after such importation: Provided, That the Secretary of the Treasury may, in his discretion, extend such period for a further term of six months in case application shall be made therefor.

583. Pulu.

584. Quinia, sulphate of, and all alkaloids or salts of cinchona bark.

585. Radium and salts of, radioactive substitutes, selenium and salts of.

586. Rags, not otherwise specially provided for in this section.

587. Railway bars, made of iron or steel, and railway bars made in part of steel, rails, and punched iron or steel flat rails.

588. Rennets, raw or prepared.

589. Rye and rye flour.

590. Sago, crude, and sago flour.

591. Salicin.

592. Salep, or salop.

593. Salt.

594. Santonin, and its combinations with acids not subject to duty under this section.

595. Seeds: Cardamom, cauliflower, celery, coriander, cotton, cummin, fennel, fenugreek, hemp, hoarhound, mangelwurzel, mustard, rape, Saint John's bread or bean, sorghum, sugar beet, and sugar cane for seed; bulbs and bulbous roots, not edible and not otherwise provided for in this section; all flower and grass seeds;
coniferous evergreen seedlings; all the foregoing not specially provided for in this section.

All mature mother flowering bulbs imported exclusively for propagating purposes were to be admitted free of duty by a proviso annexed to paragraph 210 of Schedule G of this section, ante.

596. Sheep dip.
597. Shotgun barrels, in single tubes, forged, rough bored.
598. Shrimps, lobsters, and other shellfish.
599. Silk cocoons and silk waste.

600. Silk, raw, in skeins reeled from the cocoon, or rereeled, but not wound, doubled, twisted, or advanced in manufacture in any way.

601. Silkworm eggs.
602. Skeletons and other preparations of anatomy.
603. Skins of hares, rabbits, dogs, goats, and sheep, undressed.
604. Skins of all kinds, raw, and hides not specially provided for in this section.

605. Soda, arseniate of, cyanide of, sulphate of, crude, or salt cake and niter cake, soda ash, silicate of, nitrate of, or cubic nitrate.
606. Soya beans.
607. Specimens of natural history, botany, and mineralogy, when imported for scientific public collections, and not for sale.
608. Spunk.
609. Spurs and stilts used in the manufacture of earthen, porcelain, and stone ware.

610. Stamps: Foreign postage or revenue stamps, canceled or uncanceled, and foreign government stamped post cards bearing no other printing than the official imprint thereon.

611. Statuary and casts of sculpture for use as models or for art educational purposes only; regalia and gems, where specially imported in good faith for the use and by order of any society incorporated or established solely for religious, philosophical, educational, scientific, or literary purposes, or for the encouragement of the fine arts, or for the use and by order of any college, academy, school, seminary of learning, orphan asylum, or public hospital in the United States, or any State or public library, and not for sale, subject to such regulations as the Secretary of the Treasury shall prescribe; but the term "regalia" as herein used shall be held to embrace only such insignia of rank or office or emblems as may be worn upon the person or borne in the hand during public exercises of the society or institution, and shall not include articles of furniture or fixtures, or of regular wearing apparel, nor personal property of individuals.

612. Steel engraved forms for bonds, debentures, stock certificates, negotiable receipts, notes and other securities; and engraved steel plates, dies and rolls, suitable for use in engraving or printing bonds, stock certificates or other securities.

613. Steel ingots, cogged ingots, blooms and slabs, die blocks or blanks, and billets, if made by the Bessemer, Siemens-Martin,
open-hearth or similar processes, not containing alloy, such as nickel, cobalt, vanadium, chromium, tungsten, or wolfram, molybdenum, titanium, iridium, uranium, tantalum, boron, and similar alloys.

614. Stone and sand: Burrstone in blocks, rough or unmanufactured; rotten stone, tripoli, and sand, crude or manufactured; cliff stone, freestone, granite, sandstone, and limestone, unmanufactured, and not suitable for use as monumental or building stone; all of the foregoing not specially provided for in this section.

615. Strontia, oxide of, protoxide of strontian, and strontianite or mineral carbonate of strontia.

616. Strychnia or strychnine, and its combinations with acids not subject to duty under this section.

617. Sulphur in any form, brimstone, and sulphur ore as pyrites, or sulphuret of iron in its natural state, containing in excess of 25 per centum of sulphur.

618. Sumac, ground or unground.

619. Swine, cattle, sheep, and all other domestic live animals suitable for human food not otherwise provided for in this section.

620. Tagua nuts.

621. Talcum, steatite, and French chalk, crude and unground.

622. Tallow.

623. Tamarinds.

624. Tanning material: Extracts of quebracho, and of hemlock bark; extracts of oak and chestnut and other barks and woods other than dyewoods such as are commonly used for tanning not specially provided for in this section; nuts and nutgalls and woods used expressly for dyeing or tanning, whether or not advanced in value or condition by shredding, grinding, chipping, crushing, or any other process; and articles in a crude state used in dyeing or tanning; all the foregoing not containing alcohol and not specially provided for in this section.

625. Tapioca, tapioca flour, cassava or cassady.

626. Tar and pitch of wood.

627. Tea not specially provided for in this section, and tea plants: Provided, That the cans, boxes, or other containers of tea packed in packages of less than five pounds each shall be dutiable at the rate chargeable thereon if imported empty: Provided further, That nothing herein contained shall be construed to repeal or impair the provisions of an Act entitled "An Act to prevent the importation of impure and unwholesome tea," approved March second, eighteen hundred and ninety-seven, and any Act amendatory thereof.

Act March 2, 1897, c. 858, to prevent the importation of impure and unwholesome tea, mentioned in this paragraph, is set forth post, §§ 8796-8796.

Act June 13, 1898, c. 448, § 50, 30 Stat. 470, which imposed a duty upon tea of ten cents a pound, was repealed by Act April 12, 1902, c. 500, § 10, 32 Stat. 99, and tea was included in the Free List in the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 1, par. 991, 36 Stat. 80, with a proviso similar to that annexed to this paragraph.
628. Teeth, natural, or unmanufactured.
629. Terra alba, not made from gypsum or plaster rock.
630. Terra japonica.
631. Tin ore, cassiterite or black oxide of tin, tin in bars, blocks, pigs, or grain or granulated, and scrap tin: Provided, That there shall be imposed and paid upon cassiterite, or black oxide of tin, and upon bar, block, pig tin and grain or granulated, a duty of 4 cents per pound when it is made to appear to the satisfaction of the President of the United States that the mines of the United States are producing one thousand five hundred tons of cassiterite and bar, block, and pig tin per year. The President shall make known this fact by proclamation, and thereafter said duties shall go into effect.
632. Tobacco stems.
633. Tungsten-bearing ores of all kinds.
634. Turmeric.
635. Turpentine, Venice, and spirits of.
636. Turtles.
637. Type, stereotype metal, electrotypes metal, linotype composition, all of the foregoing, old and fit only to be remanufactured.
638. Uranium, oxide and salts of.
639. Valonia.
640. Wafers, unleavened or not edible.
641. Wax, vegetable or mineral.
642. Wearing apparel, articles of personal adornment, toilet articles, and similar personal effects of persons arriving in the United States; but this exemption shall include only such articles as were actually owned by them and in their possession abroad at the time of or prior to their departure from a foreign country, and as are necessary and appropriate for the wear and use of such persons and are intended for such wear and use, and shall not be held to apply to merchandise or articles intended for other persons or for sale: Provided, That in case of residents of the United States returning from abroad all wearing apparel, personal and household effects taken by them out of the United States to foreign countries shall be admitted free of duty, without regard to their value, upon their identity being established under appropriate rules and regulations to be prescribed by the Secretary of the Treasury: Provided further, That up to but not exceeding $100 in value of articles acquired abroad by such residents of the United States for personal or household use or as souvenirs or curios, but not bought on commission or intended for sale, shall be admitted free of duty.
643. Whalebone, unmanufactured.
644. Wheat, wheat flour, semolina, and other wheat products, not specially provided for in this section: Provided, That wheat shall be subject to a duty of 10 cents per bushel, that wheat flour shall be subject to a duty of 45 cents per barrel of 196 pounds, and semolina and other products of wheat, not specially provided for
in this section, 10 per centum ad valorem, when imported directly or indirectly from a country, dependency, or other subdivision of government which imposes a duty on wheat or wheat flour or semolina imported from the United States.

645. All barbed wire, galvanized wire not larger than twenty one-hundredths of one inch in diameter and not smaller than eight one-hundredths of one inch in diameter of the kind commonly used for fencing purposes, galvanized wire fencing composed of wires not larger than twenty one-hundredths of one inch in diameter nor smaller than eight one-hundredths of one inch in diameter, and wire commonly used for baling hay or other commodities.

646. Witherite.

647. Wood: Logs, timber, round, unmanufactured, hewn or sawed, sided or squared; pulp woods, kindling wood, firewood, hop poles, hoop poles, fence posts, handle bolts, shingle bolts, gun blocks for gunstocks rough hewn or sawed, or planed on one side; hubs for wheels, posts, heading bolts, stave bolts, last blocks, wagon blocks, oar blocks, heading blocks, and all like blocks or sticks, rough hewn, sawed, or bored; sawed boards, planks, deals, and other lumber, not further manufactured than sawed, planed, and tongued and grooved; clapboards, laths, pickets, palings, staves, shingles, ship timber, ship planking, broom handles, sawdust, and wood flour; all the foregoing not specially provided for in this section.

648. Woods: Cedar, including Spanish cedar, lignum-vitæ, lance-wood, ebony, box, granadilla, mahogany, rosewood, satinwood, and all forms of cabinet woods, in the log, rough, or hewn only, and red cedar (Juniperus virginiana) timber, hewn, sided, squared, or round; sticks of partridge, hair wood, pimento, orange, myrtle, bamboo, rattan, reeds unmanufactured, India malacca joints, and other woods not specially provided for in this section, in the rough, or not further advanced than cut into lengths suitable for sticks for umbrellas, parasols, sunshades, whips, fishing rods, or walking canes.

649. Mechanically ground wood pulp, chemical wood pulp, unbleached or bleached, and rag pulp.

650. Wool of the sheep, hair of the camel, and other like animals, and all wools and hair on the skin of such animals, and paper twine for binding any of the foregoing. This paragraph shall be effective on and after the first day of December, nineteen hundred and thirteen, until which time the rates of duty now provided by schedule K of the existing law shall remain in full force and effect.

651. Wool wastes: All noils, top waste, card waste, stubbing waste, roving waste, ring waste, yarn waste, bur waste, thread waste, garnetted waste, shoddies, mungo, flocks, wool extract, carbonized wool, carbonized noils, and all other wastes not specially provided for in this section. This paragraph shall be effective on and after the first day of December, nineteen hundred and thir-
DUTIES UPON IMPORTS (Tit. 33)

652. Original paintings in oil, mineral, water, or other colors, pastels, original drawings and sketches in pen and ink or pencil and water colors, artists' proof etchings unbound, and engravings and woodcuts unbound, original sculptures or statuary, including not more than two replicas or reproductions of the same; but the terms "sculpture" and "statuary" as used in this paragraph shall be understood to include professional productions of sculptors only, whether in round or in relief, in bronze, marble, stone, terra cotta, ivory, wood, or metal, or whether cut, carved, or otherwise wrought by hand from the solid block or mass of marble, stone, or alabaster, or from metal, or cast in bronze or other metal or substance, or from wax or plaster, made as the professional productions of sculptors only; and the words "painting" and "sculpture" and "statuary" as used in this paragraph shall not be understood to include any articles of utility, nor such as are made wholly or in part by stenciling or any other mechanical process; and the words "etchings," "engravings," and "woodcuts" as used in this paragraph shall be understood to include only such as are printed by hand from plates or blocks etched or engraved with hand tools and not such as are printed from plates or blocks etched or engraved by photochemical or other mechanical processes.

653. Works of art, drawings, engravings, photographic pictures, and philosophical and scientific apparatus brought by professional artists, lecturers, or scientists arriving from abroad for use by them temporarily for exhibition and in illustration, promotion, and encouragement of art, science, or industry in the United States, and not for sale, shall be admitted free of duty, under such regulations as the Secretary of the Treasury shall prescribe; but bonds shall be given for the payment to the United States of such duties as may be imposed by law upon any and all such articles as shall not be exported within six months after such importation: Provided, That the Secretary of the Treasury may, in his discretion, extend such period for a further term of six months in cases where application therefor shall be made.

654. Works of art, collections in illustration of the progress of the arts, sciences, agriculture, or manufactures, photographs, works in terra cotta, parian, pottery, or porcelain, antiquities and artistic copies thereof in metal or other material, imported in good faith for exhibition at a fixed place by any State or by any society or institution established for the encouragement of the arts, science, agriculture, or education, or for a municipal corporation, and all like articles imported in good faith by any society or association, or for a municipal corporation, for the purpose of erecting a public monument, and not intended for sale nor for any other purpose than herein expressed; but bond shall be given under such rules and regulations as the Secretary of the Treasury may prescribe, for the payment of lawful duties which may accrue should any of the articles aforesaid be sold, trans-
DUTIES UPON IMPORTS

§ 5291

ferred, or used contrary to this provision, and such articles shall be subject, at any time, to examination and inspection by the proper officers of the customs: Provided, That the privileges of this and the preceding paragraph shall not be allowed to associations or corporations engaged in or connected with business of a private or commercial character.

655. Works of art, productions of American artists residing temporarily abroad, or other works of art, including pictorial paintings on glass, imported expressly for presentation to a national institution or to any State or municipal corporation or incorporated religious society, college, or other public institution, including stained or painted window glass or stained or painted glass windows imported to be used in houses of worship, and excluding any article, in whole or in part, molded, cast, or mechanically wrought from metal within twenty years prior to importation; but such exemption shall be subject to such regulations as the Secretary of the Treasury may prescribe.

656. Works of art (except rugs and carpets), collections in illustration of the progress of the arts, works in bronze, marble, terra cotta, parian, pottery, or porcelain, artistic antiquities, and objects of art of ornamental character or educational value which shall have been produced more than one hundred years prior to the date of importation, but the free importation of such objects shall be subject to such regulations as to proof of antiquity as the Secretary of the Treasury may prescribe.

657. Zaffer. (38 Stat. 114.)

This was the first section of the Underwood Tariff Act of 1913, cited above, entitled "An act to reduce tariff duties and to provide revenues for the Government, and for other purposes."

Section II of the act, imposing a tax upon incomes is set forth post, §§ 6319-6330.


Provisions of section IV of the act, relating to duties on imports, are set forth post, §§ 5292-6318; and other provisions of said section are set forth post, §§ 5668, 5672, 5673, 5724, 6137.

All laws affecting imports into the United States apply to articles, etc., coming from the Canal Zone, Isthmus of Panama, by Act March 2, 1906, c. 1311, post, § 5323.

Provisions for lower rates of duty on specified articles imported from Canada when Canada should impose reciprocal rates on specified articles imported from the United States, and for exemption from duty of other articles imported from Canada when specified articles from the United States should be admitted to Canada free of duty, were made by Act July 28, 1911, c. 3, § 1, post, § 5326.

Grain brought, in wagons, etc., by Canadian farmers, to be ground in mills in the United States, was not to be deemed imported or liable to import duties, by Act Jan. 8, 1898, c. 17, post, § 5320.

Articles, live stock, or wild or other animals, sent out of the United States for exhibition at any public exposition, etc., held in a foreign county, may be returned to the United States without payment of customs duty, by Act May 13, 1896, c. 185, and Act March 3, 1899, c. 454, post, §§ 5321, 5322.

(2299)
§ 5292. (Act Oct. 3, 1913, c. 16, § IV, A.) Negotiation by President of trade agreements with foreign nations authorized.

A. For the purpose of readjusting the present duties on imports into the United States and at the same time to encourage the export trade of this country, the President of the United States is authorized and empowered to negotiate trade agreements with foreign nations wherein mutual concessions are made looking toward freer trade relations and further reciprocal expansion of trade and commerce: Provided, however, That said trade agreements before becoming operative shall be submitted to the Congress of the United States for ratification or rejection. (38 Stat. 192.)

This and the 26 paragraphs next following were subdivisions A–J, L, and P–U, of section IV of the Underwood Tariff Act of 1913, cited above.

The provisions of other subdivisions of the section, K, M, N, subsec. 1. and O, relating to the collection of duties, are set forth post, §§ 5669, 5672, 5673, 5724.

Subsection 2 of subdivision N, providing for the manufacture of alcohol free of tax for denaturalization only, is set forth post, § 6137.

§ 5293. (Act Oct. 3, 1913, c. 16, § IV, B.) Reciprocity treaty with Cuba of Dec. 11, 1902, and Act Dec. 17, 1903, c. 1, for execution thereof, not affected by this act, except as to proviso of treaty abrogated.

B. Nothing in this Act contained shall be so construed as to abrogate or in any manner impair or affect the provisions of the treaty of commercial reciprocity concluded between the United States and the Republic of Cuba on the eleventh day of December, nineteen hundred and two, or the provisions of the Act of Congress heretofore passed for the execution of the same except as to the proviso of article eight of said treaty, which proviso is hereby abrogated and repealed. (38 Stat. 192.)

The treaty of commercial reciprocity mentioned in this subdivision of section V, was a commercial convention set forth in 33 Stat. 2136.

The act for the execution of said treaty, also mentioned in this subdivision, was Act Dec. 17, 1903, c. 1, set forth post, §§ 5324, 5325.

Article 8 of said treaty, including the proviso annexed thereto, which was abrogated and repealed by the last clause of this subdivision of section IV, was set forth in 32 Stat. 2140, as follows:

"The rates of duty herein granted by the United States to the Republic of Cuba are and shall continue during the term of this convention preferential in respect to all like imports from other countries, and, in return for said preferential rates of duty granted to the Republic of Cuba by the United States, it is agreed that the concession herein granted on the part of the said Republic of Cuba to the products of the United States shall likewise be, and shall continue, during the term of this convention, preferential in respect to all like imports from other countries. Provided, That while this convention is in force, no sugar imported from the Republic of Cuba and being the product of the soil or industry of the Republic of Cuba shall be admitted into the United States at a reduction of duty greater than twenty per centum of the rates of duty thereon as provided by the tariff act of the United States approved July 24, 1897, and no sugar, the product of any other foreign country, shall be admitted by treaty or convention into the United States, while this convention is in force, at a lower rate of duty than that provided by the tariff act of the United States approved July 24, 1897."

(2294)
§ 5294. (Act Oct. 3, 1913, c. 16, § IV, C.) Duties on articles coming from Philippine Islands; certain articles free of duty; certain articles from United States free of duty in Philippine Islands; taxes equal to internal-revenue taxes on articles coming into United States from Philippine Islands, and into Philippine Islands from United States; internal revenues collected in Philippine Islands to accrue to government thereof; repeal of provision authorizing export duties.

C. There shall be levied, collected, and paid upon all articles coming into the United States from the Philippine Islands the rates of duty which are required to be levied, collected, and paid upon like articles imported from foreign countries: Provided, That all articles, the growth or product of or manufactured in the Philippine Islands from materials the growth or product of the Philippine Islands or of the United States, or of both, or which do not contain foreign materials to the value of more than 20 per centum of their total value, upon which no drawback of customs duties has been allowed therein, coming into the United States from the Philippine Islands shall hereafter be admitted free of duty: Provided, however, That in consideration of the exemptions aforesaid, all articles, the growth, product, or manufacture of the United States, upon which no drawback of customs duties has been allowed therein, shall be admitted to the Philippine Islands from the United States free of duty: And provided further, That the free admission, herein provided, of such articles, the growth, product, or manufacture of the United States, into the Philippine Islands, or of the growth, product, or manufacture, as hereinbefore defined, of the Philippine Islands into the United States, shall be conditioned upon the direct shipment thereof, under a through bill of lading, from the country of origin to the country of destination: Provided, That direct shipment shall include shipments in bond through foreign territory contiguous to the United States: Provided, however, That if such articles become unpacked while en route by accident, wreck, or other casualty, or so damaged as to necessitate their repacking, the same shall be admitted free of duty upon satisfactory proof that the unpacking occurred through accident or necessity and that the merchandise involved is the identical merchandise originally shipped from the United States or the Philippine Islands, as the case may be, and that its condition has not been changed except for such damage as may have been sustained: And provided, That there shall be levied, collected and paid, in the United States, upon articles, goods, wares, or merchandise coming into the United States from the Philippine Islands, a tax equal to the internal-revenue tax imposed in the United States upon the like articles, goods, wares, or merchandise of domestic manufacture; such tax to be paid by internal-revenue stamp or stamps, to be provided by the Commissioner of Internal Revenue, and to be affixed in such manner and under such regulations as he, with the approval of the Secretary of the Treasury, shall prescribe; and such articles, goods, wares, or merchandise, shipped from said islands to the United States, shall be exempt from
the payment of any tax imposed by the internal-revenue laws of the Philippine Islands: And provided further, That there shall be levied, collected, and paid in the Philippine Islands, upon articles, goods, wares, or merchandise going into the Philippine Islands from the United States, a tax equal to the internal-revenue tax imposed in the Philippine Islands upon the like articles, goods, wares, or merchandise of Philippine Islands manufacture; such tax to be paid by internal-revenue stamps or otherwise, as provided by the laws in the Philippine Islands; and such articles, goods, wares, or merchandise going into the Philippine Islands from the United States shall be exempt from the payment of any tax imposed by the internal-revenue laws of the United States: And provided further, That in addition to the customs taxes imposed in the Philippine Islands, there shall be levied, collected, and paid therein upon articles, goods, wares, or merchandise imported into the Philippine Islands from countries other than the United States, the internal-revenue tax imposed by the Philippine Government on like articles manufactured and consumed in the Philippine Islands or shipped thereto for consumption therein, from the United States: And provided further, That from and after the passage of this Act all internal revenues collected in or for account of the Philippine Islands shall accrue intact to the general government thereof and be paid into the insular treasury: And provided further, That section thirteen of "An Act to raise revenue for the Philippine Islands, and for other purposes," approved August fifth, nineteen hundred and nine, is hereby repealed. (38 Stat. 192.)

Previous provisions relating to duties on articles coming from the Philippine Islands, and to the disposition of duties and taxes collected, of Act March 8, 1902, c. 140, §§ 2, 4, 5, 32 Stat. 54, were superseded by those of the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 5, 36 Stat. 85. That section was superseded by these provisions, and was one of the sections repealed by section IV, S, of this act, post, § 5816.

Previous provisions, in the last proviso of section 2 of said Act March 8, 1902, c. 140, 32 Stat. 54, and in a proviso annexed to Act March 3, 1905, c. 1408, § 13, 33 Stat. 975, for reduction of or exemption from export duties on products of the Philippine Islands coming to the United States, were superseded by the provisions relating to that subject of the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 5, repealed by this act, as stated above, and in section 13 of the Philippine Tariff Act of Aug. 5, 1909, c. 8, which was repealed by the last proviso annexed to these provisions.

Said section 13 of the Philippine Tariff of Aug. 5, 1909, c. 8, 38 Stat. 173, repealed by said last proviso above, was as follows:

"Sec. 13. That upon the exportation to any foreign country from the Philippine Islands, or the shipment thereof to the United States or any of its possessions, of the following articles, there shall be levied, collected and paid thereon the following export duties: Provided, however, That all articles the growth and product of the Philippine Islands coming directly from said islands to the United States or any of its possessions for use and consumption therein, shall be exempt from any export duties imposed in the Philippine Islands:

"322. Abaca (bund), gross weight, one hundred kilos, seventy-five cents.
"333. Sugar, gross weight, one hundred kilos, five cents.
"354. Copra, gross weight, one hundred kilos, ten cents.
"355. Tobacco, gross weight:

"(a) Manufactured or unmanufactured, except as otherwise provided, one hundred kilos, one dollar and thirty cents.

(2296)
"(b) Stems, clippings, and other wastes of tobacco, one hundred kilos., fifty cents."

Duties on all articles, goods, etc., entering the jurisdiction of the Philippine Islands from any place or places, including the United States and its possessions, were prescribed by said Philippine Tariff Act of Aug. 5, 1900, c. 8, 36 Stat. 130. That act superseded the previous act, which revised and amended the tariff laws of the Philippine Islands, Act March 3, 1905, c. 1408, 33 Stat. 928, amended by Act Feb. 26, 1906, c. 506, 34 Stat. 24.


D. Articles, goods, wares, or merchandise going into Porto Rico from the United States shall be exempted from the payment of any tax imposed by the internal-revenue laws of the United States. (38 Stat. 193.)

§ 5296. (Act Oct. 3, 1913, c. 16, § IV, E.) Countervailing duty on articles on which bounty on exportation was paid.

E. Whenever any country, dependency, colony, province or other political subdivision of government shall pay or bestow, directly or indirectly, any bounty or grant upon the exportation of any article or merchandise from such country, dependency, colony, province or other political subdivision of government, and such article or merchandise is dutiable under the provisions of this Act, then upon the importation of any such article or merchandise into the United States, whether the same shall be imported directly from the country of production or otherwise, and whether such article or merchandise is imported in the same condition as when exported from the country of production or has been changed in condition by remanufacture or otherwise, there shall be levied and paid, in all such cases, in addition to the duties otherwise imposed by this Act, an additional duty equal to the net amount of such bounty or grant, however the same be paid or bestowed. The net amount of all such bounties or grants shall be from time to time ascertained, determined, and declared by the Secretary of the Treasury, who shall make all needful regulations for the identification of such articles and merchandise and for the assessment and collection of such additional duties. (38 Stat. 193.)

Provisions in the same language as those of this subdivision were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 6, 36 Stat. 85, superseding similar provisions of previous tariff acts. That section was superseded by these provisions, and was repealed by section IV, S, post, § 5316.

The President was authorized, when satisfied that unjust discriminations were made by any foreign state against the importation or sale therein of any product of the United States, to direct that such products as he might deem proper of such foreign state be excluded from importation to the United States, by Act Aug. 30, 1890, c. 839, § 5, post, § 5319.

§ 5297. (Act Oct. 3, 1913, c. 16, § IV, F, subsec. 1.) Articles to be marked to indicate country of origin; packages, to indicate country of origin and quantity of contents.

F. Subsection 1. All articles of foreign manufacture or production, which are capable of being marked, stamped, branded, or labeled, without injury, shall be marked, stamped, branded, or la-
beled in legible English words, in a conspicuous place that shall not be covered or obscured by any subsequent attachments or arrangements, so as to indicate the country of origin. Said marking, stamping, branding, or labeling shall be as nearly indelible and permanent as the nature of the article will permit.

All packages containing imported articles shall be marked, stamped, branded, or labeled so as to indicate legibly and plainly, in English words, the country of origin and the quantity of their contents, and until marked in accordance with the directions prescribed in this section no articles or packages shall be delivered to the importer.

Should any article or package of imported merchandise be marked, stamped, branded, or labeled so as not accurately to indicate the quantity, number or measurement actually contained in such article or package, no delivery of the same shall be made to the importer until the mark, stamp, brand, or label, as the case may be, shall be changed so as to conform to the facts of the case.

The Secretary of the Treasury shall prescribe the necessary rules and regulations to carry out the foregoing provision. (38 Stat. 194.)

Provisions in the same language as those of this subsection and subsection 2 of this subdivision, next following, were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, §§ 7, 8, 30 Stat. 85, 86, superseding similar provisions of previous tariff acts. Those sections were superseded by these provisions, and were repealed by section IV, 8, of this act, post, § 8316.

Provisions of the Dingley Tariff Act of July 24, 1897, c. 11, § 11, 30 Stat. 207, which prohibited the importation of articles copying or simulating the name or trade-mark of any domestic manufacture or manufacturer, etc., were superseded by more comprehensive provisions of the same nature of the Trademark Act of Feb. 20, 1905, c. 592, § 27, post, § 8618.

§ 5298. (Act Oct. 3, 1913, c. 16, § IV, F, subsec. 2.) Fraudulent violation of provisions relating to marking, etc., articles or packages, or defacing, etc., marks, etc.; punishment.

F. Subsection 2. If any person shall fraudulently violate any of the provisions of this Act relating to the marking, stamping, branding, or labeling of any imported articles or packages; or shall fraudulently deface, destroy, remove, alter, or obliterate any such marks, stamps, brands, or labels with intent to conceal the information given by or contained in such marks, stamps, brands, or labels, he shall upon conviction be fined in any sum not exceeding $5,000, or be imprisoned for any time not exceeding one year, or both. (38 Stat. 194.)

See notes to preceding subsection.

§ 5299. (Act Oct. 3, 1913, c. 16, § IV, G, subsec. 1.) Importation of obscene books, etc., or other articles, or of lottery tickets, etc., prohibited; seizure and forfeiture.

G. Subsection 1. All persons are prohibited from importing into the United States from any foreign country any obscene book, pamphlet, paper, writing, advertisement, circular, print, picture, drawing, or other representation, figure, or image on or of paper or other material, or any cast, instrument, or other article of an immoral nature, or any drug or medicine, or any article whatever for
the prevention of conception or for causing unlawful abortion, or any lottery ticket or any advertisement of any lottery. No such articles, whether imported separately or contained in packages with other goods entitled to entry, shall be admitted to entry; and all such articles shall be proceeded against, seized, and forfeited by due course of law. All such prohibited articles and the package in which they are contained in the course of importation shall be detained by the officer of customs, and proceedings taken against the same as hereinafter prescribed, unless it appears to the satisfaction of the collector of customs that the obscene articles contained in the package were inclosed therein without the knowledge or consent of the importer, owner, agent, or consignee: Provided, That the drugs hereinbefore mentioned, when imported in bulk and not put up for any of the purposes hereinbefore specified, are excepted from the operation of this section. (38 Stat. 194.)

Provisions in substantially the same language as those of this subsection and subsections 2 and 3 of this subdivision, next following, were made by the Payne-Aldrich Tariff Act of Aug. 6, 1909, c. 6, §§ 9–11, 36 Stat. 88, superseding similar provisions of previous tariff acts. Those sections were superseded by these provisions, and were repealed by section IV, § 8, of this act, post, § 5316.

Photographic films imported under section 1 of this act were made subject to such censorship as may be imposed by the Secretary of the Treasury, by a proviso annexed to paragraph 380 of said section, ante, §§ 5291, par. 380.

§ 5300. (Act Oct. 3, 1913, c. 16, § IV, G, subsec. 2.) Aiding, etc., by officer, etc., in violation of provisions prohibiting importation, etc., of obscene publications, etc., or other articles, a misdemeanor; punishment.

G. Subsection 2. Whoever, being an officer, agent, or employee of the Government of the United States, shall knowingly aid or abet any person engaged in any violation of any of the provisions of law prohibiting importing, advertising, dealing in, exhibiting, or sending or receiving by mail obscene or indecent publications or representations, or means for preventing conception or procuring abortion, or other articles of indecent or immoral use or tendency, shall be deemed guilty of a misdemeanor, and shall for every offense be punishable by a fine of not more than $5,000, or by imprisonment at hard labor for not more than ten years, or both. (38 Stat. 195.)

See notes to preceding subsection.

The provision, in the same language as this subsection, of the Dingley Tariff Act of July 24, 1897, c. 11, § 17, 30 Stat. 209, and R. S. § 1755, which was in substantially the same language, were incorporated in the Criminal Code, § 102, post, § 10271, and were repealed by section 341 of said Code post, § 10315, which took effect Jan. 1, 1910.

§ 5301. (Act Oct. 3, 1913, c. 16, § IV, G, subsec. 3.) Proceedings for seizure, etc., of articles mentioned in two preceding subsections, for violation thereof.

G. Subsection 3. Any circuit or district judge of the United States, within the proper district, before whom complaint in writing of any violation of the two preceding sections is made, to the sat-
§ 5301. DUTIES UPON IMPORTS

isfaction of such judge, and founded on knowledge or belief, and if upon belief, setting forth the grounds of such belief, and supported by oath or affirmation of the complainant, may issue, conformably to the Constitution, a warrant directed to the marshal or any deputy marshal in the proper district, directing him to search for, seize, and take possession of any such article or thing mentioned in the two preceding sections, and to make due and immediate return thereof to the end that the same may be condemned and destroyed by proceedings, which shall be conducted in the same manner as other proceedings in the case of municipal seizure, and with the same right of appeal or writ of error. (38 Stat. 195.)

See notes to preceding subsections of this subdivision.

Importation of opium in any form or of any preparation or derivative there- of, except for medicinal purposes only, was prohibited by Act Feb. 9, 1909, c. 100, post, §§ 8800, 8801.

The importation of tea inferior in purity, quality, and fitness for consumption to the standards provided, was prohibited by Act March 2, 1897, c. 354, post, §§ 8786–8796.

Importation of white phosphorus matches manufactured wholly or in part in any foreign country, was prohibited by a proviso annexed to paragraph 345 of section 1 of this act, ante, § 5291, par. 345, in accordance with Act April 9, 1912, c. 79, § 10, post, § 6280, which had prohibited the importation of such matches after January 1, 1913.

§ 5302. (Act Oct. 3, 1913, c. 16, § IV, H, subsec. 1.) Importation of neat cattle and hides thereof prohibited; suspension of prohibition, in part, authorized.

H. Subsection 1. The importation of neat cattle and the hides of neat cattle from any foreign country into the United States is prohibited: Provided, That the operation of this section shall be suspended as to any foreign country or countries, or any parts of such country or countries, whenever the Secretary of the Treasury shall officially determine, and give public notice thereof, that such importation will not tend to the introduction or spread of contagious or infectious diseases among the cattle of the United States; and the Secretary of the Treasury is hereby authorized and empowered, and it shall be his duty, to make all necessary orders and regulations to carry this section into effect, or to suspend the same as herein provided, and to send copies thereof to the proper officers in the United States and to such officers or agents of the United States in foreign countries as he shall judge necessary. (38 Stat. 195.)

Provisions in the same language as those of this subsection and subsection 2 of this subdivision, next following, were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, §§ 12, 13, 36 Stat. 86, 87, superseding similar provisions of previous tariff acts. Those sections were superseded by these provisions and were repealed by section IV, S, of this act, post, § 5310.


H. Subsection 2. Any person convicted of a willful violation of any of the provisions of the preceding subsection shall be fined (2300)
not exceeding $500, or imprisoned not exceeding one year, or both, in the discretion of the court. (38 Stat. 195.)

See note to preceding subsection.

Importation of eggs of game birds or eggs of birds not used for food, with some exceptions, was prohibited by a proviso annexed to paragraph 478 of section 1 of this act, ante, § 5291, par. 478.

Importation of aigrettes, egret plumes, or so-called osprey plumes and the feathers, etc., of wild birds, not for scientific or educational purposes, was prohibited by a proviso annexed to paragraph 347, of section 1 of this act, ante, § 5291, par. 347; but the provision was not to apply to the feathers or plumes of ostriches, or of domestic fowls. And the prohibition of the importation of feathers was not to be construed as applying to artificial flies used for fishing, by a proviso annexed to paragraph 186 of section 1 of this act, ante, § 5291, par. 186.

§ 5304. (Act Oct. 3, 1913, c. 16, § IV, I.) Importation of goods manufactured by convict labor prohibited.

I. All goods, wares, articles, and merchandise manufactured wholly or in part in any foreign country by convict labor shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited, and the Secretary of the Treasury is authorized and directed to prescribe such regulations as may be necessary for the enforcement of this provision. (38 Stat. 195.)

Provisions in the same language as those of this subdivision were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 14, 36 Stat. 87, superseding similar provisions of previous tariff acts. That section was superseded by these provisions, and was repealed by section IV, S, of this act, post, § 5316.

§ 5305. (Act Oct. 3, 1913, c. 16, § IV, J, subsec. 1.) Discriminating duty on goods imported in foreign vessels.

J. Subsection 1. A discriminating duty of 10 per centum ad valorem, in addition to the duties imposed by law, shall be levied, collected, and paid on all goods, wares, or merchandise which shall be imported in vessels not of the United States, or which being the production or manufacture of any foreign country not contiguous to the United States, shall come into the United States from such contiguous country; but this discriminating duty shall not apply to goods, wares, or merchandise which shall be imported in vessels not of the United States entitled at the time of such importation by treaty or convention or Act of Congress to be entered in the ports of the United States on payment of the same duties as shall then be payable on goods, wares, and merchandise imported in vessels of the United States, nor to such foreign products or manufactures as shall be imported from such contiguous countries in the usual course of strictly retail trade. (38 Stat. 195.)

Provisions in the same language as those of this subsection were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 15, 36 Stat. 87, superseding similar provisions of previous tariff acts. That section was superseded by these provisions, and was repealed by section IV, S, of this act, post, § 5316.

§ 5306. (Act Oct. 3, 1913, c. 16, § IV, J, subsec. 2.) Importation only in vessels of United States or of country of origin of goods.

J. Subsection 2. No goods, wares, or merchandise, unless in
cases provided for by treaty, shall be imported into the United States from any foreign port or place, except in vessels of the United States, or in such foreign vessels as truly and wholly belong to the citizens or subjects of that country of which the goods are the growth, production, or manufacture, or from which such goods, wares, or merchandise can only be, or most usually are, first shipped for transportation. All goods, wares, or merchandise imported contrary to this section, and the vessel wherein the same shall be imported, together with her cargo, tackle, apparel, and furniture, shall be forfeited to the United States; and such goods, wares, or merchandise, ship, or vessel, and cargo shall be liable to be seized, prosecuted, and condemned in like manner, and under the same regulations, restrictions, and provisions as have been heretofore established for the recovery, collection, distribution, and remission of forfeitures to the United States by the several revenue laws. (38 Stat. 196.)

Provisions in substantially the same language as those of this subsection and subsection 3 of this subdivision, next following, were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, §§ 16, 17, 36 Stat. 87, superseding similar provisions of previous tariff acts. Those sections were superseded by these provisions, and were repealed by section 14, 8, of this act, post, § 5316.

§ 5307. (Act Oct. 3, 1913, c. 16, § IV, J, subsec. 3.) Restriction of preceding subsection to vessels, or goods, etc., imported in vessels, of foreign nations maintaining similar regulation.

J. Subsection 3. The preceding subsection shall not apply to vessels or goods, wares, or merchandise imported in vessels of a foreign nation which does not maintain a similar regulation against vessels of the United States. (38 Stat. 196.)

See note to preceding subsection.

§ 5308. (Act Oct. 3, 1913, c. 16, § IV, J, subsec. 4.) Admission without payment of duty, under bond for exportation, of certain articles for purposes or uses specified, not for sale.

J. Subsection 4. Machinery or other articles to be altered or repaired, molders' patterns for use in the manufacture of castings intended to be and actually exported within six months from the date of importation thereof, models of women's wearing apparel imported by manufacturers for use as models in their own establishments, and not for sale, samples solely for use in taking orders for merchandise, articles intended solely for experimental purposes, and automobiles, motor cycles, bicycles, aeroplanes, airships, balloons, motor boats, racing shells, teams, and saddle horses, and similar vehicles and craft brought temporarily into the United States by nonresidents for touring purposes or for the purpose of taking part in races or other specific contests, may be admitted without the payment of duty under bond for their exportation within six months from the date of importation and under such regulations and subject to such conditions as the Secretary of the Treasury may prescribe: Provided, That no article shall be enti-
tled to entry under this section that is intended for sale or which is imported for sale on approval. (38 Stat. 196.)

Provisions similar to some extent to those of this subsection were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 18, 36 Stat. 87, superseding similar provisions of previous tariff acts. That section was superseded by these provisions and was repealed by section IV, S, of this act, post, § 5316.

§ 5309. (Act Oct. 3, 1913, c. 16, § IV, J, subsec. 5.) Importation in bond of materials for construction of naval vessels or certain other vessels, and of materials for building their machinery, and articles for their outfit and equipment; use thereof free of duty.

J. Subsection 5. All materials of foreign production which may be necessary for the construction of naval vessels or other vessels of the United States, vessels built in the United States for foreign account and ownership, or for the purpose of being employed in the foreign or domestic trade, and all such materials necessary for the building of their machinery, and all articles necessary for their outfit and equipment, may be imported in bond under such regulations as the Secretary of the Treasury may prescribe; and upon proof that such materials have been used for such purposes no duties shall be paid thereon. (38 Stat. 196.)

Provisions similar to some extent to those of this subsection were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 19, 36 Stat. 88, superseding similar provisions of previous tariff acts. That section was superseded by these provisions and was repealed by section IV, S, of this act, post, § 5316.

§ 5310. (Act Oct. 3, 1913, c. 16, § IV, J, subsec. 6.) Withdrawal from bond, free of duty, of articles for repair of naval vessels or certain other vessels.

J. Subsection 6. All articles of foreign production needed for the repair of naval vessels of, or other vessels owned or used by, the United States and vessels now or hereafter registered under the laws of the United States may be withdrawn from bonded warehouses free of duty, under such regulations as the Secretary of the Treasury may prescribe. (38 Stat. 196.)

Provisions similar to some extent to those of this subsection were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 20, 36 Stat. 87, superseding similar provisions of previous tariff acts. That section was superseded by these provisions and was repealed by section IV, S, of this act, post, § 5316.

§ 5311. (Act Oct. 3, 1913, c. 16, § IV, J, subsec. 7.) Discount on duties on goods, etc., imported in vessels registered under laws of United States.

J. Subsection 7. A discount of 5 per centum on all duties imposed by this Act shall be allowed on such goods, wares, and merchandise as shall be imported in vessels admitted to registration under the laws of the United States: Provided, That nothing in this subsection shall be so construed as to abrogate or in any manner impair or affect the provisions of any treaty concluded between the United States and any foreign nation. (38 Stat. 196.)

(2303)
§ 5312. (Act Oct. 3, 1913, c. 16, § IV, L.) Admission free of duty of merchandise from vessels sunk and abandoned.

L. Whenever any vessel laden with merchandise, in whole or in part subject to duty, has been sunk in any river, harbor, bay, or waters subject to the jurisdiction of the United States, and within its limits, for the period of two years, and is abandoned by the owner thereof, any person who may raise such vessel shall be permitted to bring any merchandise recovered therefrom into the port nearest to the place where such vessel was so raised free from the payment of any duty thereupon, but under such regulations as the Secretary of the Treasury may prescribe. (38 Stat. 197.)

Provisions in the same language as those of this subdivision were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 22, 36 Stat. 83, superseding similar provisions of previous tariff acts. That section was superseded by these provisions, and was repealed by section IV, 8, of this act, post, § 5316.

§ 5313. (Act Oct. 3, 1913, c. 16, § IV, P.) Duty on articles reimported after exportation free of internal revenue tax.

P. Upon the reimportation of articles once exported, of the growth, product, or manufacture of the United States, upon which no internal tax has been assessed or paid, or upon which such tax has been paid and refunded by allowance or drawback, there shall be levied, collected, and paid a duty equal to the tax imposed by the internal-revenue laws upon such articles, except articles manufactured in bonded warehouses and exported pursuant to law, which shall be subject to the same rate of duty as if originally imported, but proof of the identity of such articles shall be made under general regulations to be prescribed by the Secretary of the Treasury. (38 Stat. 201.)

Provisions in the same language as those of this subdivision were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 26, 36 Stat. 90, superseding similar provisions of previous tariff acts. That section was superseded by these provisions, and was repealed by section IV, 8, of this act, post, § 5316.

§ 5314. (Act Oct. 3, 1913, c. 16, § IV, Q.) Duties imposed by act applicable to goods, etc., previously imported but not entered, or entered without payment of duty and under bond.

Q. On and after the day when this Act shall go into effect all goods, wares, and merchandise previously imported, for which no entry has been made, and all goods, wares, and merchandise previously entered without payment of duty and under bond for warehousing, transportation, or any other purpose, for which no permit of delivery to the importer or his agent has been issued, shall be subjected to the duties imposed by this Act and to no other duty, upon the entry or the withdrawal thereof: Provided, That when duties are based upon the weight of merchandise deposited in any public or private bonded warehouse, said duties shall be levied and collected upon the weight of such merchandise at the time of its entry. (38 Stat. 201.)

Provisions in the same language as those of this subdivision were made by the Payne-Aldrich Tariff Act of Aug. 5, 1909, c. 6, § 29, 36 Stat. 108, and by previous tariff acts.

(2304)
§ 5315. (Act Oct. 3, 1913, c. 16, § IV, R.) President to ascertain amount of imports and exports of articles enumerated in section I of act, and cause estimate to be made of amount of domestic production and consumption thereof, and advise Congress when imports amount to less than five per centum of domestic consumption.

R. The President shall cause to be ascertained each year, the amount of imports and exports of the articles enumerated in the various paragraphs in section one of this Act and cause an estimate to be made of the amount of the domestic production and consumption of said articles, and where it is ascertained that the imports under any paragraph amount to less than 5 per centum of the domestic consumption of the articles enumerated he shall advise the Congress as to the facts and his conclusions by special message, if deemed important in the public interest. (38 Stat. 201.)

§ 5316. (Act Oct. 3, 1913, c. 16, § IV, S.) Repeal of Act Aug. 5, 1909, c. 6, §§ 1–42, and of all inconsistent acts and parts of acts; limitations on operation of act and on effect of repeals of other acts thereby.

S. Except as hereinafter provided, sections one to forty-two both inclusive, of an Act entitled "An Act to provide revenue, equalize duties, and encourage the industries of the United States, and for other purposes," approved August fifth, nineteen hundred and nine, and all Acts and parts of Acts inconsistent with the provisions of this Act, are hereby repealed: Provided, That nothing in this Act shall be construed to permit any oaths to be demanded or fees to be charged except as provided in this Act or in section twenty-eight hundred and sixty-two of the Revised Statutes of the United States, nor to repeal or in any manner affect the following numbered sections of the aforesaid Act approved August fifth, nineteen hundred and nine, viz: Subsection twenty-nine of section twenty-eight and subsequent laws and amendments relating to the establishment and continuance of a Customs Court, subsection thirty of section twenty-eight, providing for additional attorneys, subsection twelve of section twenty-eight and subsequent provisions establishing a Board of General Appraisers of merchandise, sections thirty, thirty-one, thirty-two, thirty-three, and thirty-five, imposing an internal revenue tax upon tobacco, section thirty-six, providing for a tonnage duty, section thirty-nine, authorizing the Secretary of the Treasury to borrow on the credit of the United States to defray expenditures on account of the Panama Canal, section forty, authorizing the Secretary of the Treasury to borrow to meet public expenditures: Provided further, That all excise taxes upon corporations imposed by section thirty-eight, that have accrued or have been imposed for the year ending December thirty-first, nineteen hundred and twelve, shall be returned, assessed, and collected in the same manner, and under the same provisions, liens, and penalties as if section thirty-eight continued in full force and effect: And provided further, That a special excise tax with respect to

Comp.St.13—145

(2305)
the carrying on or doing of business, equivalent to 1 per centum upon their entire net income, shall be levied, assessed, and collected upon corporations, joint stock companies or associations, and insurance companies, of the character described in section thirty-eight of the Act of August fifth, nineteen hundred and nine, for the period from January first to February twenty-eighth, nineteen hundred and thirteen, both dates inclusive, which said tax shall be computed upon one-sixth of the entire net income of said corporations, joint stock companies or associations, and insurance companies, for said year, said net income to be ascertained in accordance with the provisions of subsection G of section two of this Act: Provided further, That the provisions of said section thirty-eight of the Act of August fifth, nineteen hundred and nine, relative to the collection of the tax therein imposed shall remain in force for the collection of the excise tax herein provided, but for the year nineteen hundred and thirteen it shall not be necessary to make more than one return and assessment for all the taxes imposed herein upon said corporations, joint stock companies or associations, and insurance companies, either by way of income or excise, which return and assessment shall be made at the times and in the manner provided in this Act; but the repeal of existing laws or modifications thereof embraced in this Act shall not affect any act done, or any right accruing or accrued, or any suit or proceeding had or commenced in any civil case before the said repeal or modification; but all rights and liabilities under said laws shall continue and may be enforced in the same manner as if said repeal or modifications had not been made. Any offenses committed and all penalties or forfeitures or liabilities incurred prior to the passage of this Act under any statute embraced in or changed, modified, or repealed by this Act may be prosecuted or punished in the same manner and with the same effect as if this Act had not been passed. No Acts of limitation now in force, whether applicable to civil causes and proceedings or to the prosecution of offenses or for the recovery of penalties or forfeitures embraced in or modified, changed, or repealed by this Act shall be affected thereby so far as they affect any suits, proceedings, or prosecutions, whether civil or criminal, for causes arising or acts done or committed prior to the passage of this Act, which may be commenced and prosecuted within the same time and with the same effect as if this Act had not been passed. (38 Stat. 201.)


T. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of said Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. (38 Stat. 202.)

U. Unless otherwise herein specially provided, this Act shall take effect on the day following its passage. (38 Stat. 202.)

§ 5319. (Act Aug. 30, 1890, c. 839, § 5.) Suspension of importation of products from countries making unjust discriminations.

Whenever the President shall be satisfied that unjust discriminations are made by or under the authority of any foreign state against the importation to or sale in such foreign state of any product of the United States, he may direct that such products of such foreign state so discriminating against any product of the United States as he may deem proper shall be excluded from importation to the United States; and in such case he shall make proclamation of his direction in the premises, and therein name the time when such direction against importation shall take effect, and after such date the importation of the articles named in such proclamation shall be unlawful. The President may at any time revoke, modify, terminate, or renew any such direction as, in his opinion, the public interest may require. (26 Stat. 415.)

This section was part of an act providing for inspection of meats for exportation, prohibiting importation of adulterated articles of food and drink, etc. Other sections of the act are set forth post, §§ 8682, 8683, 8685-8688, 8708.

§ 5320. (Act Jan. 9, 1883, c. 17.) Grain brought from Canada by farmers to be ground not subject to duty.

Grain brought into the United States in wagons or other ordinary road vehicles, by farmers residing in the Dominion of Canada, to be ground by mills owned by citizens of the United States, shall not be deemed to be imported or liable to import duties; Provided, That such grain shall be brought into the United States under such regulations as the Treasury Department may prescribe to prevent fraud and evasion, and shall be returned as in like manner provided by such regulations: And provided further, That entry shall be made of and duties paid upon all such grain as shall be taken or received by mill-owners as tolls for such grinding, under like regulations provided by the Treasury Department. (22 Stat. 402.)

This was an act entitled "An act to permit grain brought by Canadian farmers to be ground at mills in the United States adjacent to Canadian Territory, under such rules and regulations as may be prescribed by the Treasury Department."

§ 5321. (Act May 18, 1896, c. 195.) Return free of duty of articles or live stock exported for exhibition.

Whenever any article or articles or live stock shall be sent out of the United States for temporary use or exhibition at any public exposition, fair, or conference, held in a foreign country, such articles shall be entitled to be returned to the United States, under such regulations as may be prescribed by the Secretary of the Treasury, without the payment of customs duty, whether they shall be of domestic or of foreign production: Provided, That the articles of foreign production have once paid duty in the United States
and no drawback has been allowed thereon, and if any domestic articles are subject to internal-revenue tax, such tax shall be proved to have been paid before exportation and not refunded. (29 Stat. 122.)

This was an act entitled "An act to allow the return of duly of certain articles exported from the United States for exhibition purposes."

This act was intended to include in the privilege of free entry animals taken abroad temporarily for exhibition, by Act March 18, 1899, c. 454, post. § 5322.

Provisions for free importation of articles intended for foreign buildings and exhibits at the Panama-Pacific International Exposition, made by Act Sept. 18, 1915, c. 14, § 1, 38 Stat. 112, are omitted, as temporary merely.

§ 5322. (Act March 3, 1899, c. 454.) Return free of duty of animals taken abroad for exhibition.

The Act entitled "An Act to allow the return free of duty of certain articles exported from the United States for exhibition purposes," approved May eighteenth, eighteen hundred and ninety-six, is hereby amended so as to include in the privilege of free entry conferred thereby wild and other animals of foreign origin taken abroad temporarily for exhibition in connection with any circus or menagerie, subject, however, to the conditions and limitations prescribed in said Act. Provided, however, That the provision of this amendment shall apply only in such cases as those of foreign-born animals taken abroad, and inventories of which are filed prior to their leaving the country with the collector of customs at the port of their departure. (30 Stat. 1372.)

Act May 18, 1896, c. 185, mentioned in and amended by this act, is set forth ante, § 5321.

§ 5323. (Act March 2, 1905, c. 1311.) Laws affecting imports of articles, etc., and entry of persons into United States from foreign countries to apply to articles, etc., and persons coming from Canal Zone, Isthmus of Panama.

All laws affecting imports of articles, goods, wares, and merchandise and entry of persons into the United States from foreign countries shall apply to articles, goods, wares, and merchandise and persons coming from the Canal Zone, Isthmus of Panama, and seeking entry into any State or Territory of the United States or the District of Columbia. (33 Stat. 843.)

This was an act entitled "An act fixing the status of merchandise coming into the United States from the Canal Zone, Isthmus of Panama."

§ 5324. (Act Dec. 17, 1903, c. 1, § 1.) Reduction of duties on products of Cuba authorized; limitation of reduction of duties on sugar; construction of act as to origin of acts changing customs duties.

Whenever the President of the United States shall receive satisfactory evidence that the Republic of Cuba has made provision to give full effect to the articles of the convention between the United States and the Republic of Cuba, signed on the eleventh day of December, in the year nineteen hundred and two, he is hereby authorized to issue his proclamation declaring that he has received such evidence, and thereupon on the tenth day after exchange of
ratifications of such convention between the United States and the Republic of Cuba, and so long as the said convention shall remain in force, all articles of merchandise being the product of the soil or industry of the Republic of Cuba, which are now imported into the United States free of duty, shall continue to be so admitted free of duty, and all other articles of merchandise being the product of the soil or industry of the Republic of Cuba imported into the United States shall be admitted at a reduction of twenty per centum of the rates of duty thereon, as provided by the tariff Act of the United States, approved July twenty-fourth, eighteen hundred and ninety-seven, or as may be provided by any tariff law of the United States subsequently enacted. The rates of duty herein granted by the United States to the Republic of Cuba are and shall continue during the term of said convention preferential in respect to all like imports from other countries: Provided, That while said convention is in force no sugar imported from the Republic of Cuba, and being the product of the soil or industry of the Republic of Cuba, shall be admitted into the United States at a reduction of duty greater than twenty per centum of the rates of duty thereon, as provided by the tariff Act of the United States, approved July twenty-fourth, eighteen hundred and ninety-seven, and no sugar the product of any other foreign country shall be admitted by treaty or convention into the United States while this convention is in force at a lower rate of duty than that provided by the tariff Act of the United States approved July twenty-fourth, eighteen hundred and ninety-seven: And provided further, That nothing herein contained shall be held or construed as an admission on the part of the House of Representatives that customs duties can be changed otherwise than by an Act of Congress, originating in said House. (33 Stat. 3.)

This section and the section next following were an act entitled "An act to carry into effect a convention between the United States and the Republic of Cuba, signed on the eleventh day of December, in the year nineteen hundred and two."

Nothing in the Payne-Aldrich Tariff Act of 1909 was to be construed to abrogate or impair or affect the provisions of the treaty mentioned in this act or the provisions of this act, by section 3 of said act, Act Aug. 5, 1909, c. 6, § 3, 36 Stat. 88.

Nothing in the Underwood Tariff Act of Oct. 3, 1913, was to be construed to abrogate or impair or affect the provisions of the treaty mentioned in this act, or the provisions of this act, except as to the proviso of Article VIII of said treaty, which proviso was abrogated and repealed, by section IV, B, of said act, ante, § 5293.

See notes to said Underwood Tariff Act of Oct. 3, 1913, c. 10, § IV, B, ante, § 5293.

§ 5325. (Act Dec. 17, 1903, c. 1, § 2.) No additional fees or charges on products of Cuba; equal treatment of imports by both countries.

So long as said convention shall remain in force, the laws and regulations adopted, or that may be adopted by the United States to protect the revenues and prevent fraud in the declarations and proofs, that the articles of merchandise to which said convention may apply are the product or manufacture of the Republic of Cuba,
§ 5325 DUTIES UPON IMPORTS

shall not impose any additional charge or fees therefor on the articles imported, excepting the consular fees established, or which may be established, by the United States for issuing shipping documents, which fees shall not be higher than those charged on the shipments of similar merchandise from any other nation whatsoever; that articles of the Republic of Cuba shall receive, on their importation into the ports of the United States, treatment equal to that which similar articles of the United States shall receive on their importation into the ports of the Republic of Cuba; that any tax or charge that may be imposed by the national or local authorities of the United States upon the articles of merchandise of the Republic of Cuba, embraced in the provisions of said convention, subsequent to importation and prior to their entering into consumption into the United States, shall be imposed and collected without discrimination upon like articles whenever imported. (33 Stat. 4.)

See notes to preceding section of this act, ante, § 5324.

§ 5326. (Act July 26, 1911, c. 3, § 1.) Duties on specified imports from Canada, when reciprocal rates are imposed by Canada on specified imports from United States, and exemption from duty of specified articles imported from Canada, when specified articles from United States are admitted into Canada free of duty.

There shall be levied, collected, and paid upon the articles hereinafter enumerated, the growth, product or manufacture of the Dominion of Canada, when imported therefrom into the United States or any of its possessions (except the Philippine Islands and the islands of Guam and Tutuila), in lieu of the duties now levied, collected, and paid, the following duties, namely:

Fresh meats: Beef, veal, mutton, lamb, pork, and all other fresh or refrigerated meats excepting game, one and one-fourth cents per pound.

Bacon and hams, not in tins or jars, one and one-fourth cents per pound.

Meats of all kinds, dried, smoked, salted, in brine, or prepared or preserved in any manner, not otherwise herein provided for, one and one-fourth cents per pound.

Canned meats and canned poultry, twenty per centum ad valorem.

Extract of meat, fluid or not, twenty per centum ad valorem.

Lard and compounds thereof, cottolene and cotton stearine, and animal stearine, one and one-fourth cents per pound.

Tallow, forty cents per one hundred pounds.

Egg yolk, egg albumen, and blood albumen, seven and one-half per centum ad valorem.

Fish (except shellfish) by whatever name known, packed in oil, in tin boxes or cans, including the weight of the package: (a) when weighing over twenty ounces and not over thirty-six ounces each, five cents per package; (b) when weighing over twelve ounces and not over twenty ounces each, four cents per package; (c) when weighing twelve ounces each or less, two cents per package; (d) when weighing thirty-six ounces each or more, or when packed in oil, in bottles, jars, or kegs, thirty per centum ad valorem.

(2310)
Tomatoes and other vegetables, including corn, in cans or other air-tight packages, and including the weight of the package, one and one-fourth cents per pound.

Wheat flour and semolina, and rye flour, fifty cents per barrel of one hundred and ninety-six pounds.

Oatmeal and rolled oats, including the weight of paper covering, fifty cents per one hundred pounds.

Corn meal, twelve and one-half cents per one hundred pounds.

Barley malt, forty-five cents per one hundred pounds.

Barley, pot, pearled, or patent, one-half cent per pound.

Buckwheat flour or meal, one-half cent per pound.

Split peas, dried, seven and one-half cents per bushel of sixty pounds.

Prepared cereal foods, not otherwise provided for herein, seventeen and one-half per centum ad valorem.

Bran, middlings, and other offals of grain used for animal food, twelve and one-half cents per one hundred pounds.

Macaroni and vermicelli, one cent per pound.

Biscuits, wafers, and cakes, when sweetened with sugar, honey, molasses, or other material, twenty-five per centum ad valorem.

Biscuits, wafers, cakes, and other baked articles, composed in whole or in part of eggs or any kind of flour or meal, when combined with chocolate, nuts, fruits, or confectionery; also candied peel, candied popcorn, candied nuts, candied fruits, sugar candy, and confectionery of all kinds, thirty-two and one-half per centum ad valorem.

Maple sugar and maple sirup, one cent per pound.

Pickles, included pickled nuts, sauces of all kinds, and fish paste or sauce, thirty-two and one-half per centum ad valorem.

Cherry juice and prune juice, or prune wine, and other fruit juices and fruit sirup, nonalcoholic, seventeen and one-half per centum ad valorem.

Mineral waters and imitations of natural mineral waters, in bottles or jugs, seventeen and one-half per centum ad valorem.

Essential oils, seven and one-half per centum ad valorem.

Grapevines; gooseberry, raspberry, and current bushes, seventeen and one-half per centum ad valorem.

Farm wagons and finished parts thereof, twenty-two and one-half per centum ad valorem.

Plows, tooth and disk harrows, harvesters, reapers, agricultural drills and planters, mowers, horserakes, cultivators; threshing machines, including windstackers, baggers, weighers, and self-feeders therefor and finished parts thereof imported for repair of the foregoing, fifteen per centum ad valorem.

Portable engines with boilers, in combination, horsepower and traction engines for farm purposes; hay loaders, potato diggers, fodder or feed cutters, grain crushers, fanning mills, hay tedders, farm or field rollers, manure spreaders, weeder, and windmills, and finished parts thereof imported for repair of the foregoing, except shafting, twenty per centum ad valorem.

(2311)
Grindstones of sandstone, not mounted, finished or not, five cents per one hundred pounds.

Freestone, granite, sandstone, limestone, and all other monumental or building stone, except marble, breccia, and onyx, unmanufactured or not dressed, hewn, or polished, twelve and one-half per centum ad valorem.

Roofing slates, fifty-five cents per one hundred square feet.

Vitrified paving blocks, not ornamented or decorated in any manner, and paving blocks of stone, seventeen and one-half per centum ad valorem.

Oxide of iron, as a color, twenty-two and one-half per centum ad valorem.

Asbestos, further manufactured than ground; manufactures of asbestos or articles of which asbestos is the component material of chief value, including woven fabrics, wholly or in chief value of asbestos, twenty-two and one-half per centum ad valorem.

Printing ink, seventeen and one-half per centum ad valorem.

Cutlery, plated or not—pocketknives, penknives, scissors and shears, knives and forks for household purposes, and table steels, twenty-seven and one-half per centum ad valorem.

Bells and gongs, brass corners and rules for printers, twenty-seven and one-half per centum ad valorem.

Basins, urinals, and other plumbing fixtures, for bathrooms and lavatories; bathtubs, sinks, and laundry tubs of earthenware, stone, cement, or clay, or of other material, thirty-two and one-half per centum ad valorem.

Brass band instruments, twenty-two and one-half per centum ad valorem.

Clocks, watches, time recorders, clock and watch keys, clock cases, and clock movements, twenty-seven and one-half per centum ad valorem.

Printers’ wooden cases and cabinets for holding type, twenty-seven and one-half per centum ad valorem.

Wood flour, twenty-two and one-half per centum ad valorem.

Canoes and small boats of wood, not power boats, twenty-two and one-half per centum ad valorem.

Feathers, crude, not dressed, colored, or otherwise manufactured, twelve and one-half per centum ad valorem.

Antiseptic surgical dressings, such as absorbent cotton, cotton wool, lint, lamb’s wool, tow, jute, gauzes, and oifkum, prepared for use as surgical dressings, plain or medicated; surgical trusses, pessaries, and suspensory bandages of all kinds, seventeen and one-half per centum ad valorem.

Plate glass, not beveled, in sheets or panes exceeding seven square feet each and not exceeding twenty-five square feet each, twenty-five per centum ad valorem.

Motor vehicles, other than for railways and tramways, and automobiles and parts thereof, not including rubber tires, thirty per centum ad valorem.

(2312)
Iron or steel digesters for the manufacture of wood pulp, twenty-seven and one-half per centum ad valorem.

Musical instrument cases, fancy cases or boxes, portfolios, satchels, reticules, card cases, purses, pocketbooks, fly books for artificial flies, all the foregoing composed wholly or in chief value of leather, thirty per centum ad valorem.

Aluminum in crude form, five cents per pound.

Aluminum in plates, sheets, bars, and rods, eight cents per pound.

Laths, ten cents per one thousand pieces.

Shingles, thirty cents per thousand.

Sawed boards, planks, deals, and other lumber, planed or finished on one side, fifty cents per thousand feet, board measure; planed or finished on one side and tongued and grooved, or planed or finished on two sides, seventy-five cents per thousand feet, board measure; planed or finished on three sides, or planed and finished on two sides and tongued and grooved, one dollar and twelve and one-half cents per thousand feet, board measure; planed and finished on four sides, one dollar and fifty cents per thousand feet, board measure; and in estimating board measure under this schedule no deduction shall be made on board measure on account of planing, tonguing, and grooving.

Iron ore, including manganiferous iron ore, and the dross or residuum from burnt pyrites, ten cents per ton: Provided, That in levying and collecting the duty on iron ore no deduction shall be made from the weight of the ore on account of moisture which may be chemically or physically combined therewith.

Coal slack or culm of all kinds, such as will pass through a half-inch screen, fifteen cents per ton.

Provided, That the duties above enumerated shall take effect whenever the President of the United States shall have satisfactory evidence and shall make proclamation that on the articles hereinafter enumerated, the growth, product, or manufacture of the United States, or any of its possessions (except the Philippine Islands and the islands of Guam and Tutuila), when imported therefrom into the Dominion of Canada, duties not in excess of the following are imposed, namely:

Fresh meats: Beef, veal, mutton, lamb, pork, and all other fresh or refrigerated meats excepting game, one and one-fourth cents per pound.

Bacon and hams, not in tins or jars, one and one-fourth cents per pound.

Meats of all kinds, dried, smoked, salted, in brine, or prepared or preserved in any manner, not otherwise herein provided for, one and one-fourth cents per pound.

Canned meats and canned poultry, twenty per centum ad valorem.

Extract of meat, fluid or not, twenty per centum ad valorem.

Lard, and compounds thereof,cottolene and cotton stearin, and animal stearin, one and one-fourth cents per pound.

Tallow, forty cents per one hundred pounds.

Egg yolk, egg albumen, and blood albumen, seven and one-half per centum ad valorem.

Fish (except shellfish), by whatever name known, packed in oil, in
tin boxes or cans, including the weight of the package: (a) when weighing over twenty ounces and not over thirty-six ounces each, five cents per package; (b) when weighing over twelve ounces and not over twenty ounces each, four cents per package; (c) when weighing twelve ounces each or less, two cents per package; (d) when weighing thirty-six ounces each or more, or when packed in oil, in bottles, jars, or kegs, thirty per centum ad valorem.

Tomatoes and other vegetables, including corn, in cans or other air-tight packages, and including the weight of the package, one and one-fourth cents per pound.

Wheat flour and semolina; and rye flour, fifty cents per barrel of one hundred and ninety-six pounds.

Oatmeal and rolled oats, including the weight of paper covering, fifty cents per one hundred pounds.

Corn meal, twelve and one-half cents per one hundred pounds.

Barley malt, forty-five cents per one hundred pounds.

Barley, pot, pearled, or patent, one-half cent per pound.

Buckwheat flour or meal, one-half cent per pound.

Split peas, dried, seven and one-half cents per bushel of sixty pounds.

Prepared cereal foods, not otherwise provided for herein, seventeen and one-half per centum ad valorem.

Bran, middlings, and other offals of grain used for animal food twelve and one-half cents per one hundred pounds.

Macaroni and vermicelli, one cent per pound.

Biscuits, wafers, and cakes, when sweetened with sugar, honey, molasses, or other material, twenty-five per centum ad valorem.

Biscuits, wafers, cakes, and other baked articles, composed in whole or in part of eggs or any kind of flour or meal, when combined with chocolate, nuts, fruits, or confectionery; also candied peel, candied popcorn, candied nuts, candied fruits, sugar candy, and confectionery of all kinds, thirty-two and one-half per centum ad valorem.

Maple sugar and maple sirup, one cent per pound.

Pickles, including pickled nuts, sauces of all kinds, and fish paste or sauce, thirty-two and one-half per centum ad valorem.

Cherry juice and prune juice, or prune wine, and other fruit juices, and fruit sirup, nonalcoholic, seventeen and one-half per centum ad valorem.

Mineral waters and imitations of natural mineral waters, in bottles or jugs, seventeen and one-half per centum ad valorem.

Essential oils, seven and one-half per centum ad valorem.

Grapevines, gooseberry, raspberry, and currant bushes, seventeen and one-half per centum ad valorem.

Farm wagons, and finished parts thereof, twenty-two and one-half per centum ad valorem.

Plows, tooth and disk harrows, harvesters, reapers, agricultural drills and planters, mowers, horserakes, cultivators; threshing machines, including windstackers, baggers, weighers, and self-feeders therefor, and finished parts thereof imported for repair of the foregoing, fifteen per centum ad valorem.

(2314)
Portable engines with boilers, in combination, horse-power and traction engines, for farm purposes; hay loaders, potato diggers, fodder or feed cutters, grain crushers, fanning mills, hay tedders, farm or field rollers, manure spreaders, weeders, and windmills, and finished parts thereof imported for repair of the foregoing, except shafting, twenty per centum ad valorem.

Grindstones of sandstone, not mounted, finished or not, five cents per one hundred pounds.

Freestone, granite, sandstone, limestone, and all other monumental or building stone, except marble, breccia, and onyx, unmanufactured or not dressed, hewn or polished, twelve and one-half per centum ad valorem.

Roofing slates, fifty-five cents per one hundred square feet.

Vitrified paving blocks, not ornamented or decorated in any manner, and paving blocks of stone, seventeen and one-half per centum ad valorem.

Oxide of iron, as a color, twenty-two and one-half per centum ad valorem.

Asbestos further manufactured than ground: Manufactures of asbestos, or articles of which asbestos is the component material of chief value, including woven fabrics wholly or in chief value of asbestos, twenty-two and one-half per centum ad valorem.

Printing ink, seventeen and one-half per centum ad valorem.

Cutlery, plated or not: Pocketknives, penknives, scissors and shears, knives and forks for household purposes, and table steels, twenty-seven and one-half per centum ad valorem.

Bells and gongs, brass corners and rules for printers, twenty-seven and one-half per centum ad valorem.

Basins, urinals, and other plumbing fixtures for bathrooms and lavatories; bathtubs, sinks, and laundry tubs, of earthenware, stone, cement, or clay, or of other material, thirty-two and one-half per centum ad valorem.

Brass band instruments, twenty-two and one-half per centum ad valorem.

Clocks, watches, time recorders, clock and watch keys, clock cases, and clock movements, twenty-seven and one-half per centum ad valorem.

Printers' wooden cases and cabinets for holding type, twenty-seven and one-half per centum ad valorem.

Wood flour, twenty-two and one-half per centum ad valorem.

Canoes and small boats of wood, not power boats, twenty-two and one-half per centum ad valorem.

Feathers, crude, not dressed, colored or otherwise manufactured, twelve and one-half per centum ad valorem.

Antiseptic surgical dressings, such as absorbent cotton, cotton wool, lint, lamb's wool, tow, jute, gauzes, and oakum, prepared for use as surgical dressings, plain or medicated; surgical trusses, pessaries, and suspensory bandages of all kinds, seventeen and one-half per centum ad valorem.
Plate glass, not beveled, in sheets or panes exceeding seven square feet each, and not exceeding twenty-five square feet each, twenty-five per centum ad valorem.

Motor vehicles, other than for railways and tramways, and automobiles, and parts thereof, not including rubber tires, thirty per centum ad valorem.

Iron or steel digesters for the manufacture of wood pulp, twenty-seven and one-half per centum ad valorem.

Musical instrument cases, fancy cases or boxes, portfolios, satchels, reticules, card cases, purses, pocketbooks, fly books for artificial flies; all the foregoing composed wholly or in chief value of leather, thirty per centum ad valorem.

Cement, Portland, and hydraulic or water lime in barrels, bags, or casks, the weight of the package to be included in the weight for duty, eleven cents per one hundred pounds.

Trees: Apple, cherry, peach, pear, plum, and quince, of all kinds, and small peach trees known as June buds, two and one-half cents each.

Condensed milk, the weight of the package to be included in the weight for duty, two cents per pound.

Biscuits without added sweetening, twenty per centum ad valorem.

Fruits in air-tight cans or other air-tight packages, the weight of the cans or other packages to be included in the weight for duty, two cents per pound.

Peanuts, shelled, one cent per pound.

Peanuts, unshelled, one-half cent per pound.

Coal, bituminous, round and run of mine, including bituminous coal such as will not pass through a three-quarter inch screen, forty-five cents per ton.

That the articles mentioned in the following paragraphs, the growth, product, or manufacture of the Dominion of Canada, when imported therefrom into the United States or any of its possessions (except the Philippine Islands and the Islands of Guam and Tutuila), shall be exempt from duty, namely:

Live animals: Cattle, horses and mules, swine, sheep, lambs, and all other live animals.

Poultry, dead or alive.

Wheat, rye, oats, barley, and buckwheat, dried peas and beans, edible.

Corn, sweet corn, or maize.

Hay, straw, and cowpeas.

Fresh vegetables: Potatoes, sweet potatoes, yams, turnips, onions, cabbages, and all other vegetables in their natural state.

Fresh fruits: Apples, pears, peaches, grapes, berries, and all other edible fruits in their natural state, except lemons, oranges, limes, grapefruit, shadocks, pomelos, and pineapples.

Dried fruits: Apples, peaches, pears, and apricots, dried, desiccated or evaporated.

Dairy products: Butter, cheese, and fresh milk and cream: Provided, That cans actually used in the transportation of milk or cream
may be passed back and forth between the two countries free of duty, under such regulations as the respective Governments may prescribe.

Eggs of barnyard fowl, in the shell.

Honey.

Cottonseed oil.

Seeds: Flaxseed or linseed, cotton seed, and other oil seeds; grass seed, including timothy and clover seed; garden, field, and other seed not herein otherwise provided for, when in packages weighing over one pound each (not including flower seeds).

Fish of all kinds, fresh, frozen, packed in ice, salted, or preserved in any form, except sardines and other fish preserved in oil; and shell-fish of all kinds, including oysters, lobsters, and clams in any state, fresh or packed, and coverings of the foregoing.

Seal, herring, whale, and other fish oil, including sod oil: Provided, That fish oil, whale oil, seal oil, and fish of all kinds, being the product of fisheries carried on by the fishermen of the United States, shall be admitted into Canada as the product of the United States, and, similarly, that fish oil, whale oil, seal oil, and fish of all kinds, being the product of fisheries carried on by the fishermen of Canada, shall be admitted into the United States as the product of Canada.

Salt.

Mineral waters, natural, not in bottles or jugs.

Timber, hewn, sided or squared otherwise than by sawing, and round timber used for spars or in building wharves.

Sawed boards, planks, deals, and other lumber, not further manufactured than sawed.

Paving posts, railroad ties, and telephone, trolley, electric-light, and telegraph poles of cedar or other woods.

Wooden staves of all kinds, not further manufactured than listed or jointed, and stave bolts.

Pickets and palings.

Plaster rock, or gypsum, crude, not ground.

Mica, unmanufactured or rough trimmed only, and mica, ground or bolted.

Feldspar, crude, powdered or ground.

Asbestos, not further manufactured than ground.

Fluorspar, crude, not ground.

Glycerine, crude, not purified.

Talc, ground, bolted, or precipitated, naturally or artificially, not for toilet use.

Sulphate of soda, or salt cake, and soda ash.

Extracts of hemlock bark.

Carbon electrodes.

Brass in bars and rods, in coil or otherwise, not less than six feet in length, or brass in strips, sheets, or plates, not polished, planished, or coated.

Cream separators of every description, and parts thereof imported for repair of the foregoing.

Rolled iron or steel sheets, or plates, number fourteen gauge or thinner, galvanized or coated with zinc, tin, or other metal, or not. (2317)
Crucible cast-steel wire, valued at not less than six cents per pound. Galvanized iron or steel wire, curved or not, numbers nine, twelve, and thirteen wire gauge.

Typesetting and typesetting machines and parts thereof, adapted for use in printing offices.

Barbed fencing wire of iron or steel, galvanized or not.

Coke.

Rolled round wire rods in the coil, of iron or steel, not over three-eighths of an inch in diameter, and not smaller than number six wire gauge.

Provided, That the articles above enumerated, the growth, product, or manufacture of the Dominion of Canada, shall be exempt from duty when the President of the United States shall have satisfactory evidence and shall make proclamation that the following articles, the growth, product, or manufacture of the United States or any of its possessions (except the Philippine Islands and the Islands of Guam and Tutuila), are admitted into the Dominion of Canada free of duty, namely:

Live animals: Cattle, horses and mules, swine, sheep, lambs, and all other live animals.

Poultry, dead or alive.

Wheat, rye, oats, barley, and buckwheat; dried peas and beans, edible.

Corn, sweet corn, or maize (except into Canada for distillation).

Hay, straw, and cowpeas.

Fresh vegetables: Potatoes, sweet potatoes, yams, turnips, onions, cabbages, and all other vegetables in their natural state.

Fresh fruits: Apples, pears, peaches, grapes, berries, and all other edible fruits in their natural state.

Dried fruits: Apples, peaches, pears, and apricots, dried, desiccated, or evaporated.

Dairy products: Butter, cheese, and fresh milk and cream: Provided, That cans actually used in the transportation of milk or cream may be passed back and forth between the two countries free of duty, under such regulations as the respective Governments may prescribe.

Eggs of barnyard fowl, in the shell.

Honey.

Cottonseed oil.

Seeds: Flaxseed or linseed, cotton seed, and other oil seeds; grass seed, including timothy and clover seed; garden, field, and other seed not herein otherwise provided for, when in packages weighing over one pound each (not including flower seeds).

Fish of all kinds, fresh, frozen, packed in ice, salted or preserved in any form, except sardines and other fish preserved in oil; and shellfish of all kinds, including oysters, lobsters, and clams in any state, fresh or packed, and coverings of the foregoing.

Seal, herring, whale, and other fish oil, including sod oil: Provided, That fish oil, whale oil, seal oil, and fish of all kinds, being the product of fisheries carried on by the fishermen of the United States, shall be admitted into Canada as the product of the United States, and simi-
larly that fish oil, whale oil, seal oil, and fish of all kinds, being the
product of fisheries carried on by the fishermen of Canada, shall be
admitted into the United States as the product of Canada.

Salt.

Mineral waters, natural, not in bottles or jugs.
Timber, hewn, sided or squared otherwise than by sawing, and
round timber used for spars or in building wharves.
Sawed boards, planks, deals, and other lumber, not further manu-
factured than sawed.
Paving posts, railroad ties, and telephone, trolley, electric light,
and telegraph poles of cedar or other woods.
Wooden staves of all kinds, not further manufactured than listed
or jointed, and stave bolts.
Pickets and palings.
Plaster rock or gypsum, crude, not ground.
Mica, unmanufactured or rough trimmed only, and mica, ground
or bolted.
Feldspar, crude, powdered or ground.
Asbestos not further manufactured than ground.
Fluorspar, crude, not ground.
Glycerine, crude, not purified.
Talc, ground, bolted or precipitated, naturally or artificially, not
for toilet use.
Sulphate of soda, or salt cake, and soda ash.
Extracts of hemlock bark.
Carbon electrodes.
Brass in bars and rods, in coil or otherwise, not less than six feet in
length, or brass in strips, sheets, or plates, not polished, planished, or
coated.
Cream separators of every description, and parts thereof imported
for repair of the foregoing.
Rolled iron or steel sheets or plates, number fourteen gauge or
thinner, galvanized or coated with zinc, tin, or other metal, or not.
Crucible cast-steel wire, valued at not less than six cents per pound.
Galvanized iron or steel wire, curved or not, numbers nine, twelve,
and thirteen wire gauge.
Typcasting and typesetting machines and parts thereof, adapted
for use in printing offices.
Barbed fencing wire of iron or steel, galvanized or not.
Coke.
Rolled round wire rods in the coil, of iron or steel, not over three-
eighths of an inch in diameter, and not smaller than number six wire
gauge.  (37 Stat. 4.)

This was the first section of an act entitled "An act to promote reciprocal
trade relations with the Dominion of Canada, and for other purposes."

Section 2 of the act provided for the admission of certain wood pulp de-
scribed therein, and of paper and paper board manufactured from such wood
pulp, imported from Canada, free of duty, on condition that no export duty,
etc., or prohibition or restriction of the exportation thereof be imposed.  It
was superseded by the provisions of the Underwood Tariff Act of Oct. 3, 1913,
c. 16, § I, paragraphs 320-322 of which, ante, § 5291, para. 320-322, im-

(2319)
posed duties on certain pulp board, paper box board, etc., and on printing paper described, valued above 2½ cents per pound, and paragraphs 567, 649, of which, ante, § 5291, paras. 567, 649, included in the Free List such printing paper valued at not above 2½ cents per pound, and mechanically ground wood pulp, chemical wood pulp, unbleached or bleached, and rag pulp.

Section 8 of the act authorized the President to negotiate trade agreements with the Dominion of Canada, for the purpose of further readjusting duties on importations into the United States of articles the growth, product, or manufacture of Canada, and into Canada of articles the growth, product or manufacture of the United States. It was superseded by the more general provisions authorizing the President to negotiate trade agreements with foreign nations, made by the Underwood Tariff Act of Oct. 3, 1913, c. 16, § IV, A, ante, § 5292.

(2320)