

CODIFICATION

Section is comprised of the second clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891. The first clause of section 8 of act Mar. 3, 1877, is incorporated in section 323 of this title.

Act Jan. 6, 1921, inserted introductory exception phrase.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 326. Unsurveyed lands not subject to entry; preferential right of entry after survey

From and after March 28, 1908, the right to make entry of desert lands under the provisions of sections 321 to 323, 325, and 327 to 329 of this title, shall be restricted to surveyed public lands of the character contemplated by said sections, 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 sections who has, prior to survey, taken possession of a tract of unsurveyed desert land not exceeding in area three hundred and twenty acres in compact form, and has reclaimed or has in good faith commenced the work of reclaiming the same, shall have the preference right to make entry of such tract under said sections, in conformity with the public land surveys, within ninety days after the filing of the approved plat of survey in the district land office.

(Mar. 28, 1908, ch. 112, § 1, 35 Stat. 52.)

§ 327. Filing irrigation plan; association of entrymen

At the time of filing the declaration required in section 321 of this title 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.

(Mar. 3, 1877, ch. 107, § 4, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096.)

EXISTING CLAIMS; REPEALS

Act Mar. 3, 1877, ch. 107, § 6, as added by act Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1097, provided that existing claims should not be affected by act Mar. 3, 1891, but might be perfected under sections 321 to 323 of this title, or under sections 325 and 327 to 329 of this title, at the option of the claimant, and also repealed all acts and parts of acts in conflict with act Mar. 3, 1891.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 328. Expenditures and cultivation requirements

No land shall be patented to any person under sections 321 to 323, 325, and 327 to 329 of this title 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 \$3 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 \$1 per acre for the purposes aforesaid; and he shall in like manner expend the sum of \$1 per acre during the second and also during the third year thereafter, until the full sum of \$3 per acre is so expended. Said party shall file during each year with the officer designated by the Secretary of the Interior proof, by the affidavits of two or more credible witnesses, that the full sum of \$1 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 25 cents advanced payment shall be forfeited to the United States, and the entry shall be canceled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinbefore prescribed, provided that he then makes the required proof of reclamation to the aggregate extent of \$3 per acre: *Provided,* That proof be further required of the cultivation of one-eighth of the land.

(Mar. 3, 1877, ch. 107, § 5, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; amended 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

“Officer designated by the Secretary of the Interior” substituted for “register” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 329. Issue of patent on final proof; citizenship requirement as to patentee; limit as to amount of holding

At any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof to the officer designated by the Secretary of the Interior of the

reclamation and cultivation of said land to the extent and cost and in the manner aforesaid, and substantially in accordance with the plans herein provided for, and that he or she is a citizen of the United States, and upon payment to such officer of the additional sum of \$1 per acre for said land, a patent shall issue therefor to the applicant or his assigns; but no person or association of persons shall hold by assignment or otherwise prior to the issue of patent, more than three hundred and twenty acres of such arid or desert lands, but this section shall not apply to entries made or initiated prior to March 3, 1891: *Provided, however,* That additional proofs may be required at any time within the period prescribed by law, and that the claims or entries made under sections 321 to 323, 325, and 327 to 329 of this title shall be subject to contest, as provided by the law, relating to homestead cases, for illegal inception, abandonment, or failure to comply with the requirements of law, and upon satisfactory proof thereof shall be canceled, and the lands, and moneys paid therefor, shall be forfeited to the United States.

(Mar. 3, 1877, ch. 107, § 7, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1097; amended Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

“Officer designated by the Secretary of the Interior” substituted for “register” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3, 1946, set out as a note under section 1 of this title.

Previously, references to register and receiver changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated offices of register and receiver and provided for a single officer to be known as register.

FIVE-YEAR PERIOD

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, 1894, by act Aug. 4, 1894, ch. 208, 28 Stat. 226.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

§ 330. Desert-land entry in addition to homestead entry

The right to make a desert-land entry shall not be denied to any applicant therefor who has already made an enlarged homestead entry of three hundred and twenty acres: *Provided,* That said applicant is a duly qualified entryman and the whole area to be acquired as an enlarged homestead entry and under the provisions of this section does not exceed four hundred and eighty acres.

(Feb. 27, 1917, ch. 134, 39 Stat. 946.)

§ 331. Reclamation requirements waived in favor of disabled soldiers, etc.

Any entryman under the desert-land laws, or any person entitled to preference right of entry under section 326 of this title, who after application or entry for surveyed lands or legal initiation of claim for unsurveyed lands, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to service is unable to accomplish reclamation of and payment for the land, may make proof without further reclamation thereof or payments thereon under such rules and regulations as may be prescribed by the Secretary of the Interior, and receive patent for the land by him so entered or claimed, if found entitled thereto: *Provided,* That no such patent shall issue prior to the survey of the land.

(Mar. 1, 1921, ch. 102, § 2, as added Dec. 15, 1921, ch. 3, 42 Stat. 348.)

§ 332. Omitted

CODIFICATION

Section, act Aug. 7, 1917, ch. 48, 40 Stat. 250, suspended expenditure and cultivation requirements during World War I.

§ 333. Extension of time for completion of irrigation works

Any entryman under sections 321 to 323, 325, and 327 to 329 of this title who shall show to the satisfaction of the Secretary of the Interior or such officer as he may designate that he has in good faith complied with the terms, requirements, and provisions of said sections, 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 sections, 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 Secretary or such officer, within which to furnish proof as required by said sections of the completion of said work.

(Mar. 28, 1908, ch. 112, § 3, 35 Stat. 52; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

“Secretary of the Interior or such officer as he may designate” and “Secretary or such officer” substituted for “Commissioner of the General Land Office” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished General Land Offices and Commissioner thereof and transferred function of General Land Office to a new agency in Department of the Interior to be known as Bureau of Land Management. See section 403