Settlers residing on one quarter section, and cultivating another, entitled to a choice. 1838, ch. 119.

Sec. 7. *And be it further enacted*, That where a settler on the public lands may reside on a quarter section, a fractional quarter section, or a fraction of a section less than one hundred and sixty acres, and cultivated land on any other and different tract of either of the descriptions aforesaid, he or she shall be entitled, under the act of June twenty-two, one thousand eight hundred and thirty-eight, to the same privileges of a choice between two legal subdivisions of each, so as to include his or her house and farm, not to exceed one hundred and sixty acres in all, as is granted, by the first section of that act, to settlers residing on a quarter section, and cultivating on another and different quarter.

In case of two or more persons residing on one quarter section, and one or more of them cultivating other tracts.

Sec. 8. *And be it further enacted*, That where two or more persons are residing on any of the species of tracts specified in section seven of this act, as required by the acts of the twenty-second of June, one thousand eight hundred and thirty-eight, and first of June, one thousand eight hundred and forty, and any one or more of said settlers may have cultivated land during the period of residence required by either of said acts, on another and different tract, or other and different tracts, the latter mentioned settlers shall be entitled to the option of entering the tract lived on, jointly with the other or others, or of abandoning the tract lived on to those who have not cultivated land as above required, and entering the tract or tracts cultivated, so as not to exceed one hundred and sixty acres to any one settler, who, by virtue of this section, is entitled to a separate entry; or such joint settlers may jointly enter the tract so jointly occupied by them, and in addition enter other contiguous unoccupied lands, by legal subdivisions, so as not to exceed one hundred and sixty acres in all to each of such joint settlers: *Provided*, That the extended privileges granted to pre-emptors by this act, shall not be construed to deprive any other actual settler of his or her previous and paramount right of pre-emption, or to extend to lands reserved for any purpose whatever.

Proviso.

Persons coming within sec. 10, act 4th September, 1841, ch. 16, entitled to pre-emption.

Sec. 9. *And be it further enacted*, That all persons coming within the tenth section of the act of the fourth of September, eighteen hundred and forty-one, entitled "An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," shall be entitled to the right of pre-emption under its provisions, notwithstanding such persons claiming the pre-emption shall have settled upon and improved the lands claimed before the same were surveyed: *Provided*, Such settlements were made before the date of the aforesaid act, and after the extinguishment of the Indian title. And said act shall not be so construed as to preclude any person who may have filed a notice of intention to claim any tract of land by pre-emption under said act, from the right allowed by law to others to purchase the same by private entry after the expiration of the right of pre-emption.

Proviso.

Approved, March 3, 1843.

Statute III. March 3, 1843.

Chap. LXXXVII.—*An Act to provide, in certain cases, for the sale of the real estate of infants within the District of Columbia.*

When a guardian thinks it to the ward's interest to sell, he may exhibit a bill for that purpose.

What to set forth.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when the guardian of any infant shall think that the interest of his or her ward will be promoted by the sale of his or her real estate, or any part thereof, it shall be lawful for such guardian to exhibit his bill for that purpose, in the circuit court of the District of Columbia, for that county in which the real estate proposed to be sold, or part thereof, shall lie. In the bill so exhibited, the guardian shall set forth, plainly and distinctly, all the estate, real and personal, to which such infant is entitled, and all the facts which, in his opinion, are calculated to show whether the interest of his ward will be promoted by such sale or not. The bill shall be

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Bill, how verified. Parties defendant thereto. Guardian ad litem to be appointed. Bill, how answered. Commissions for taking depositions to be awarded, &c.

verified by the oath of the guardian; and the infant, together with those who would be heirs to the estate if he or she were dead, shall be made parties defendant thereto. It shall be the duty of the court to appoint some fit and disinterested person to be guardian ad litem, for the infant, who shall answer such bill on oath; the infant, also, if above the age of fourteen years, shall answer the bill in proper person, on oath.

Sec. 2. *And be it further enacted*, That whether the answer to the plaintiff's bill admit the facts alleged or not, commissions for taking depositions shall be awarded; and before the court shall have authority, under this act, to decree any sale, every fact material to ascertain the propriety of the sale shall be proved by clear and credible evidence, given by disinterested witnesses; depositions to be taken in the presence of the guardian ad litem, or upon interrogatories agreed upon by him.

What required to render a decree of sale lawful.

Sec. 3. *And be it further enacted*, That if, upon hearing of the cause, it shall be proved, to the satisfaction of the court, by evidence taken as aforesaid, that the interest of the infant manifestly requires the sale of his real estate, or any part thereof, and the court shall be of opinion that, by such sale, the rights of others will not be violated, it shall be lawful to decree such sale, in such manner and upon such terms of credit as the court think right, always retaining a lien upon such estate for the payment of the purchase money.

Proceeds of sale to be applied to the benefit of the infant.

Sec. 4. *And be it further enacted*, That the proceeds of such sale shall be vested and applied for the benefit of the infant, either in the purchase of other real estate, or in such other manner as the court shall think best; but, in whatever hands the proceeds of the sale may be placed, the court shall require ample security that they shall be faithfully applied in such manner as the court may direct.

Disposition of proceeds in case of the infant dying.

Sec. 5. *And be it further enacted*, That if the infant, after such sale, shall die intestate, under the age of twenty-one years, the proceeds aforesaid, or so much thereof as may remain at his death, shall be considered as real estate, and shall pass accordingly to such person or persons as would have been entitled to the estate sold, if it had not been sold.

Costs of suit, how paid. Guardians not allowed to purchase.

Sec. 6. *And be it further enacted*, That if a sale be decreed, the costs of the suit shall be paid out of the estate of the infant, otherwise the costs shall be paid by the plaintiff: *Provided*, That in no case where a sale shall be decreed shall the guardian of the said infant or infants, or the guardian ad litem, be admitted a purchaser, either by himself or by another, or in any manner whatever become the owner of the said land, during the infancy of the heir or devisee: *And provided, also*, That no sale of any infant's real estate shall be decreed, by virtue of this act, if the testator from whom such estate is derived, shall, by his last will and testament, have expressly directed otherwise.

No sale to be decreed if prohibited by the testator.

Act to take effect from its passage.

Sec. 7. *And be it further enacted*, That this act shall be in force from and after the passage thereof.

Approved, March 3, 1843.

Statute III.

March 3, 1843.

1844, ch. 54.

Chap. LXXXVIII.—*An Act directing the survey of the northern line of the reservation for the half-breeds of the Sochs* [*Sacs*] *and Fox tribes of Indians by the treaty of August one thousand eight hundred and twenty-four.*

Boundary line to be surveyed and suitably demarked.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Chief Engineer cause to be surveyed and suitably demarked the northern boundary line of the reservation for the use of the half-breeds of the Soch [Sacs] and Fox tribes of Indians, by the treaty of the fourth of August one thousand eight hundred and twenty-four, beginning at the point, which at the date of said treaty was known and recognised as the northwest corner of the State of Missouri, and running thence due east to the river Mis-