

IDAHO TERRITORY.

Boise City.

87. Boise City.

Idaho land-district comprises all that part of the Territory of Idaho which lies south of the Salmon range of mountains, to which the Indian title is, or shall be, extinguished.

Lewiston.

88. Lewiston

Land-district consists of all that portion of the Territory of Idaho lying north of the Salmon River range of mountains.

MONTANA TERRITORY.

Helena.

89. Helena.

Montana land-district consists of all the public lands within the Territory to which the Indian title is, or shall be, extinguished.

UTAH TERRITORY.

Salt Lake City.

90. Salt Lake City.

Utah land-district consists of all the public lands within the Territory.

WYOMING TERRITORY.

Cheyenne City.

91. Cheyenne City.

Wyoming land-district consists of all the public lands embraced within the limits of the Territory.

ARIZONA TERRITORY.

Office to be located by President.

92. Office to be located as the President may direct.

The Gila land-district embraces all that portion of the Territory within the following limits, to wit: Commencing at the eastern boundary of the Territory, at the intersection of the first standard-line north; and running thence west on that line to the western boundary of the Territory; thence south with said boundary-line to the southern boundary of the Territory; thence east on said line to the eastern boundary of the Territory; and thence north on said line to the place of beginning.

Prescott.

93. Prescott.

Arizona land-district consists of all the public lands within the Territory, not described above in the Gila land-district.

CHAPTER FOUR.

PRE-EMPTIONS.

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SEC. 2257. All lands belonging to the United States, to which the Indian title has been or may hereafter be extinguished, shall be subject to the right of pre-emption, under the conditions, restrictions, and stipulations provided by law.

SEC. 2258. The following classes of lands, unless otherwise specially provided for by law, shall not be subject to the rights of pre-emption, to wit:

First. Lands included in any reservation by any treaty, law, or proclamation of the President, for any purpose.

Second. Lands included within the limits of any incorporated town, or selected as the site of a city or town.

Third. Lands actually settled and occupied for purposes of trade and business, and not for agriculture.

Fourth. Lands on which are situated any known salines or mines.

SEC. 2259. Every person, being the head of a family, or widow, or single person, over the age of twenty-one years, and a citizen of the United States, or having filed a declaration of intention to become such, as required by the naturalization laws, who has made, or hereafter makes, a settlement in person on the public lands subject to pre-emption, and who in habits and improves the same, and who has erected or shall erect a dwelling thereon, is authorized to enter with the register of the land-office for the district in which such land lies, by legal subdivisions, any number of acres not exceeding one hundred and sixty, or a quarter-section of land, to include the residence of such claimant, upon paying to the United States the minimum price of such land.

How., 44; Garland *vs.* Wynn, 20 How., 6; Harkness *vs.* Underhill, 1 Bl., 325; Wither-

SEC. 2260. The following classes of persons, unless otherwise specially provided for by law, shall not acquire any right of pre-emption under the provisions of the preceding section, to wit:

First. No person who is the proprietor of three hundred and twenty acres of land in any State or Territory.

Second. No person who quits or abandons his residence on his own land to reside on the public lands in the same State or Territory.

SEC. 2261. No person shall be entitled to more than one pre-emptive right by virtue of the provisions of section twenty-two hundred and fifty-nine; nor where a party has filed his declaration of intention to claim the benefits of such provisions, for one tract of land, shall he file, at any future time, a second declaration for another tract.

SEC. 2262. Before any person claiming the benefit of this chapter is allowed to enter lands, he shall make oath before the receiver or register of the land-district in which the land is situated that he has never had the benefit of any right of pre-emption under section twenty-two hun-

Lands subject to pre-emption.

2 June, 1862, c. 94, s. 1, v. 12, p. 413.

Lands not subject to pre-emption.

4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

Wilcox *vs.* Jackson, 13 Pet., 498; Josephs *vs.* U. S., 1 N. and H., 197; Turner *vs.* American Baptist Union, 5 McLean, 344; U. S. Beebe, Hamps., 704.

Persons entitled to pre-emption.

4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

U. S. *vs.* Fitzgerald, 15 Pet., 407; Lytle *vs.* Arkansas, 9 How., 333; Cunningham *vs.* Ashley, 14 How., 377; Barnard's Heirs *vs.* Ashley's Heirs, 18 Bl., 325; Wither-

Persons not entitled to pre-emption.

4 Sept., 1841, c. 16, s. 10, v. 5, p. 455.

Limitation of pre-emption right.

4 Sept., 1841, c. 16, s. 10, v. 5, p. 455. 3 March, 1843, c. 86, s. 4, v. 5, p. 620.

Oath of pre-emptionist, where filed, penalty.

4 Sept., 1841, c. 16, s. 13, v. 5, p. 456.

dred and fifty-nine; that he is not the owner of three hundred and twenty acres of land in any State or Territory; that he has not settled upon and improved such land to sell the same on speculation, but in good faith to appropriate it to his own exclusive use; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person 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; and if any person taking such oath swears falsely in the premises, he shall forfeit the money which he may have paid for such land, 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, for a valuable consideration, shall be null and void, except as provided in section twenty-two hundred and eighty-eight. And it shall be the duty of the officer administering such oath to file a certificate thereof in the public land-office of such district, and to transmit a duplicate copy to the General Land-Office, either of which shall be good and sufficient evidence that such oath was administered according to law.

Proof of settlement, assignment of pre-emption rights.

4 Sept., 1841, c. 16, s. 12, v. 5, p. 456.

Lytle vs. Arkansas, 9 How., 333; *Cunningham vs. Ashley*, 14 How., 377; *Barnard's Heirs vs. Ashley's Heirs*, 18 How., 44; *Garland vs. Wynn*, 20 How., 6; *Lytle vs. Arkansas*, 22 How., 193; *Harkness vs. Underhill*, 1 Bl., 325; *Lindsey vs. Hawse*, 2 Bl., 554; *Myers vs. Croft*, 13 Wall., 291.

Statement to be filed by settler with intent to purchase, on lands subject to private entry.

4 Sept., 1841, c. 16, s. 15, v. 5, p. 457.

Claim filed by settler on land not proclaimed for sale.

3 March, 1843, c. 86, s. 5, v. 5, p. 620.

Johnson vs. Tawseley, 13 Wall., 72.

Declaratory statement of settlers on unsurveyed lands, when filed.

30 May, 1862, c. 86, s. 7, v. 12, p. 410.

Pre-emption claimants; time of making proof and payment.

14 July, 1870, c. 272, s. 2, v. 16, p. 279. 3 March, 1871,

SEC. 2263. Prior to any entries being made under and by virtue of the provisions of section twenty-two hundred and fifty-nine, proof of the settlement and improvement thereby required shall be made to the satisfaction of the register and receiver of the land-district in which such lands lie, agreeably to such rules as may be prescribed by the Secretary of the Interior; and all assignments and transfers of the right hereby secured, prior to the issuing of the patent, shall be null and void.

SEC. 2264. When any person settles or improves a tract of land subject at the time of settlement to private entry, and intends to purchase the same under the preceding provisions of this chapter, he shall, within thirty days after the date of such settlement, file with the register of the proper district a written statement, describing the land settled upon and declaring his intention to claim the same under the pre-emption laws; and he shall, moreover, within twelve months after the date of such settlement, make the proof, affidavit, and payment hereinbefore required. If he fails to file such written statement, or to make such affidavit, proof, and payment within the several periods named above, the tract of land so settled and improved shall be subject to the entry of any other purchaser.

SEC. 2265. Every claimant under the pre-emption law for land not yet proclaimed for sale is required to make known his claim in writing to the register of the proper land-office within three months from the time of the settlement, giving the designation of the tract and the time of settlement; otherwise his claim shall be forfeited and the tract awarded to the next settler, in the order of time, on the same tract of land, who has given such notice and otherwise complied with the conditions of the law.

SEC. 2266. In regard to settlements which are authorized upon unsurveyed lands, the pre-emption claimant shall be in all cases required to file his declaratory statement within three months from the date of the receipt at the district land-office of the approved plat of the township embracing such pre-emption settlement.

SEC. 2267. All claimants of pre-emption rights, under the two preceding sections, shall, when no shorter time is prescribed by law, make the proper proof and payment for the lands claimed within thirty months after the date prescribed therein, respectively, for filing their declaratory notices, has expired.

Res. 52, v. 16, p. 601.

SEC. 2268. Where a pre-emptor has taken the initiatory steps required by law in regard to actual settlement, and is called away from such settlement by being engaged in the military or naval service of the United States, and by reason of such absence is unable to appear at the district land-office to make before the register or receiver the affidavit, proof, and payment, respectively, required by the preceding provisions of this chapter, the time for filing such affidavit and making final proof and entry or location shall be extended six months after the expiration of his term of service, upon satisfactory proof by affidavit, or the testimony of witnesses, that such pre-emptor is so in the service, being filed with the register of the land-office for the district in which his settlement is made.

Extension of time in certain cases to persons in military and naval service.

21 March, 1864, c. 38, s. 5, v. 13, p. 35.

SEC. 2269. Where a party entitled to claim the benefits of the pre-emption laws dies before consummating his claim, by filing in due time all the papers essential to the establishment of the same, it shall be competent for the executor or administrator of the estate of such party, or one of the heirs, to file the necessary papers to complete the same; but the entry in such cases shall be made in favor of the heirs of the deceased pre-emptor, and a patent thereon shall cause the title to inure to such heirs, as if their names had been specially mentioned.

Death before consummating claim; who to complete, &c.

3 March, 1843, c. 86, s. 2, v. 5, p. 620.

SEC. 2270. Whenever the vacancy of the office either of register or receiver, or of both, renders it impossible for the claimant to comply with any requisition of the pre-emption laws within the appointed time, such vacancy shall not operate to the detriment of the party claiming, in respect to any matter essential to the establishment of his claim; but such requisition must be complied with within the same period after the disability is removed as would have been allowed had such disability not existed.

Non-compliance with laws caused by vacancy in office of register or receiver not to affect, &c.

3 March, 1843, c. 86, s. 6, v. 5, p. 620.

SEC. 2271. The provisions of this chapter shall be so construed as not to confer on any one a right of pre-emption, by reason of a settlement made on a tract theretofore disposed of, when such disposal has not been confirmed by the General Land-Office, on account of any alleged defect therein.

No pre-emption of lands sold but not confirmed by Land-Office.

26 Aug., 1842, c. 205, v. 5, p. 534.

SEC. 2272. Nothing in the provisions of this chapter shall be construed to preclude any person, who may have filed a notice of intention to claim any tract of land by pre-emption, from the right allowed by law to others to purchase such tract by private entry after the expiration of the right of pre-emption.

Purchase by private entry after expiration of pre-emption right.

3 March, 1843, c. 86, s. 9, v. 5, p. 621.

SEC. 2273. When two or more persons settle on the same tract of land, the right of pre-emption shall be in him who made the first settlement, provided such person conforms to the other provision of the law; and all questions as to the right of pre-emption arising between different settlers shall be determined by the register and receiver of the district within which the land is situated; and appeals from the decision of district officers, in cases of contest for the right of pre-emption, shall be made to the Commissioner of the General Land-Office, whose decision shall be final, unless appeal therefrom be taken to the Secretary of the Interior.

When more than one settler, rights of, appeals to Commissioner.

4 Sept., 1841, c. 16, s. 11, v. 5, p. 456.

12 June, 1858, c. 154, s. 10, v. 11, p. 326.

Barnard vs. Ashley, 18 How., 43; Garland vs. Wynn, 20 How., 6; Lindsey vs. Hawse, 2 Bl., 554; Minnesota vs. Batchelder, 1 Wall., 109; Johnson vs. Tawsley, 13 Wall., 72.

SEC. 2274. When settlements have been made upon agricultural public lands of the United States, prior to the survey thereof, and it has been or shall be ascertained, after the public surveys have been extended over such lands, that two or more settlers have improvements upon the same legal subdivision, it shall be lawful for such settlers to make joint entry of their lands at the local land-office, or for either of said settlers to enter into contract with his co-settlers to convey to them their portion of said land after a patent is issued to him, and, after making said contract, to file a declaratory statement in his own name, and prove up and pay for said land, and proof of joint occupation by himself and others, and of such contract with them made, shall be

Settlements of two or more persons on same subdivision before survey.

3 March, 1873, c. 283, s. 1, v. 17, p. 609.

equivalent to proof of sole occupation and pre-emption by the applicant: *Provided*, That in no case shall the amount patented under this section exceed one hundred and sixty acres, nor shall this section apply to lands not subject to homestead or pre-emption entry.

Settlements before survey on sections 16 or 36, deficiencies thereof.

26 Feb., 1859, c. 58, v. 11, p. 385.

SEC. 2275. 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.

Selections to supply deficiencies of school lands.

26 Feb., 1859, c. 58, v. 11, p. 385.

20 May, 1826, c. 83, s. 1, v. 4, p. 179.

SEC. 2276. 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 section, and not more than one-quarter of a township, one quarter-section of land.

Military bounty-land warrants receivable for pre-emption payments.

22 March, 1852, c. 19, s. 1, v. 10, p. 3.

SEC. 2277. All warrants for military bounty-lands, which are issued under any law of the United States, shall be received in payment of pre-emption rights at the rate of one dollar and twenty-five cents per acre, for the quantity of land therein specified; but where the land 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.

Agricultural-college scrip receivable in payment of pre-emptions.

1 July, 1870, c. 196, v. 16, p. 186.

SEC. 2278. Agricultural-college scrip, issued to any State under the act approved July second, eighteen hundred and sixty-two, or acts amendatory thereof, shall be received from actual settlers in payment of pre-emption claims in the same manner and to the same extent as authorized in case of military bounty-land warrants, by the preceding section.

Pre-emption limit along railroad lines.

3 March, 1853, c. 143, v. 10, p. 244.

SEC. 2279. No person shall have the right of pre-emption to more than one hundred and sixty acres along the line of railroads within the limits granted by any act of Congress.

Pre-emption rights on lands reserved for grants found invalid.

3 March, 1853, c. 143, v. 10, p. 244.

SEC. 2280. Any settler on lands heretofore reserved on account of claims under French, Spanish, or other grants, which have been or may be hereafter declared by the Supreme Court of the United States to be invalid, shall be entitled to all the rights of pre-emption granted by the preceding provisions of this chapter, after the lands have been released from reservation, in the same manner as if no reservation had existed.

Pre-emption rights on lands reserved for railroads.

27 March, 1854, c. 25, v. 10, p. 269.

14 July, 1870, c. 272, s. 2, v. 16, p. 279.

SEC. 2281. All settlers on public lands which have been or may be withdrawn from market in consequence of proposed railroads, and who had settled thereon prior to such withdrawal, shall be entitled to pre-emption at the ordinary minimum to the lands settled on and cultivated by them; but they shall file the proper notices of their claims and make proof and payment as in other cases.

Sale of land not to be delayed, &c.

4 Sept., 1841, c. 16, s. 14, v. 5, p. 457.

SEC. 2282. Nothing contained in this chapter shall delay the sale of any of the public lands beyond the time appointed by the proclamation of the President.

SEC. 2283. The Osage Indian trust and diminished-reserve lands in the State of Kansas, excepting the sixteenth and thirty-sixth sections in each township, shall be subject to disposal, for cash only, to actual settlers, in quantities not exceeding one hundred and sixty acres, or one quarter-section to each, in compact form, in accordance with the general principles of the pre-emption laws, under the direction of the Commissioner of the General Land-Office; but claimants shall file their declaratory statements as prescribed in other cases upon unoffered lands, and shall pay for the tracts, respectively, settled upon within one year from date of settlement where the plat of survey is on file at that date, and within one year from the filing of the township-plat in the district office where such plat is not on file at date of settlement.

SEC. 2284. The sale or transfer of his claim upon any portion of these lands by any settler prior to the twenty-sixth day of April, eighteen hundred and seventy-one, shall not operate to preclude the right of entry, under the provisions of the preceding section, upon another tract settled upon subsequent to such sale or transfer; but satisfactory proof of good faith must be furnished upon such subsequent settlement.

SEC. 2285. The restrictions of the pre-emption laws, contained in sections twenty-two hundred and sixty and twenty-two hundred and sixty-one, shall not apply to any settler on the Osage Indian trust and diminished-reserve lands in the State of Kansas, who was actually residing on his claim on the ninth day of May, eighteen hundred and seventy-two.

SEC. 2286. 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.

SEC. 2287. Any bona-fide settler under the homestead or pre-emption laws of the United States who has filed the proper application to enter not to exceed one quarter-section of the public lands in any district land-office, and who has been subsequently appointed a register or receiver, may perfect the title to the land under the pre-emption laws by furnishing the proofs and making the payments required by law, to the satisfaction of the Commissioner of the General Land-Office.

SEC. 2288. Any person who has already settled or hereafter may settle on the public lands, either by pre-emption, or by virtue of the homestead law or any amendments thereto, shall have the right to transfer, by warranty against his own acts, any portion of his pre-emption or homestead for church, cemetery, or school purposes, or for the right of way of railroads across such pre-emption or homestead, and the transfer for such public purposes shall in no way vitiate the right to complete and perfect the title to their pre-emptions or homesteads.

Certain lands in Kansas, how to be sold.

9 May, 1872, c. 149, s. 1, v. 17, p. 90.

Transfer of above claims prior to, &c., subsequent right of entry.

9 May, 1872, c. 149, s. 3, v. 17, p. 90.

Pre-emption restrictions not to apply to certain lands in Kansas.

9 May, 1872, c. 149, s. 3, v. 17, p. 90.

Pre-emptions by counties for seats of justice.

26 May, 1824, c. 169, s. 1, v. 4, p. 50.

Where claimant of entry becomes register or receiver.

20 April, 1871, c. 21, s. 16, v. 17, p. 10.

Right of transfer of settlers under homestead or pre-emption laws for certain public purposes.

Act of 3 March, 1873, c. 266, v. 17, p. 602.

CHAPTER FIVE.

HOMESTEADS.

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