

March 3, 1915.
[H. R. 4545.]

[Public, No. 278.]

Judicial Code.
Vol. 36, p. 1164,
amended.

Suits at law or in
equity.
Correction if errone-
ously brought.

Amendment of
pleadings.

Acceptance of testi-
mony.

Equitable defenses.
Admissions of, in ac-
tions at law.

Procedure.

Jurisdiction from di-
verse citizenship.
Amendment of de-
fective pleadings ad-
mitted.

CHAP. 90.—An Act To amend an Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act entitled "An Act to codify, revise, and amend the laws relating to the judiciary," approved March third, nineteen hundred and eleven, be, and the same is hereby, amended by inserting after section two hundred and seventy-four thereof three new sections, to be numbered, respectively, two hundred and seventy-four a, two hundred and seventy-four b, and two hundred and seventy-four c, reading as follows:

"SEC. 274a. That in case any of said courts shall find that a suit at law should have been brought in equity or a suit in equity should have been brought at law, the court shall order any amendments to the pleadings which may be necessary to conform them to the proper practice. Any party to the suit shall have the right, at any stage of the cause, to amend his pleadings so as to obviate the objection that his suit was not brought on the right side of the court. The cause shall proceed and be determined upon such amended pleadings. All testimony taken before such amendment, if preserved, shall stand as testimony in the cause with like effect as if the pleadings had been originally in the amended form.

"SEC. 274b. That in all actions at law equitable defenses may be interposed by answer, plea, or replication without the necessity of filing a bill on the equity side of the court. The defendant shall have the same rights in such case as if he had filed a bill embodying the defense of seeking the relief prayed for in such answer or plea. Equitable relief respecting the subject matter of the suit may thus be obtained by answer or plea. In case affirmative relief is prayed in such answer or plea, the plaintiff shall file a replication. Review of the judgment or decree entered in such case shall be regulated by rule of court. Whether such review be sought by writ of error or by appeal the appellate court shall have full power to render such judgment upon the records as law and justice shall require.

"SEC. 274c. That where, in any suit brought in or removed from any State court to any district of the United States, the jurisdiction of the district court is based upon the diverse citizenship of the parties, and such diverse citizenship in fact existed at the time the suit was brought or removed, though defectively alleged, either party may amend at any stage of the proceedings and in the appellate court upon such terms as the court may impose, so as to show on the record such diverse citizenship and jurisdiction, and thereupon such suit shall be proceeded with the same as though the diverse citizenship had been fully and correctly pleaded at the inception of the suit, or, if it be a removed case, in the petition for removal."

Approved, March 3, 1915.

March 3, 1915.
[H. R. 12919.]

[Public, No. 279.]

Public lands.
Enlarged home-
steads.
Vol. 35, p. 639; Vol.
36, p. 532; Vol. 37, p. 666,
amended.

CHAP. 91.—An Act To amend an Act entitled "An Act to provide for an enlarged homestead."

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections three and four of the Act entitled "An Act to provide for an enlarged homestead," approved February nineteenth, nineteen hundred and nine, and of an Act entitled "An Act to provide for an enlarged homestead," approved June seventeenth, nineteen hundred and ten, as amended by an Act approved February eleventh, nineteen hundred and thirteen, be, and the same are hereby, amended to read as follows:

"SEC. 3. That any person who has made, or shall make, homestead entry of lands of the character herein described, and who has not submitted final proof thereon, or who having submitted final proof still owns and occupies the land thus entered, shall have the right to enter public lands, subject to the provisions of this Act, contiguous to his first entry, which shall not, together with the original entry, exceed three hundred and twenty acres: *Provided*, That the land originally entered and that covered by the additional entry shall have first been designated as subject to this Act, as provided by section one thereof.

Additional contiguous entries allowed.

Proviso.
Restricted to designated lands.
Vol. 35, p. 639.

"SEC. 4. That at the time of making final proof, 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 himself and 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 who hereafter makes, additional entry under the provisions of section three of this Act to an entry upon which final proof has not been made, 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 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 improvement made upon 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 a combined entry is hereby extended to seven years from the date of the original entry: *Provided further*, That where an entry is made as additional to an entry upon which final proof has theretofore been submitted by an entryman who still owns and occupies the land thus entered, the entryman in making proof upon his additional entry shall be credited with residence maintained upon his original entry from date thereof, but the cultivation required upon entries made under this Act must be shown respecting such additional entry and must be performed upon the land included therein to the extent and for the period required in connection with the original entries under this Act, proof of which must be submitted within five years from and after the date of the additional 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."

Proof of cultivation.
R. S., sec. 2291, p. 420.
Vol. 37, p. 123.

Minimum area required.
Vol. 37, p. 666,
amended.

Provisos.
Requirements of residence and cultivation modified.

Final proofs in combined entries.
Credit for residence on original entry, etc.

Total residence.

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