

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 declared to be unlawful, and the maintenance, erection, construction, or control of any such inclosure is 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 prohibited.

(Feb. 25, 1885, ch. 149, § 1, 23 Stat. 321.)

#### § 1062. Suits for violations of law

It shall be the duty of the United States attorney for the proper district, on affidavit filed with him by any citizen of the United States that section 1061 of this title is being violated showing a description of the land inclosed with reasonable certainty, not necessarily by metes and bounds nor by governmental subdivisions 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 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 conferred on any United States district 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 chapter; 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. 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.

(Feb. 25, 1885, ch. 149, § 2, 23 Stat. 321; Mar. 3, 1911, ch. 231, § 291, 36 Stat. 1167; June 25, 1948, ch. 646, § 1, 62 Stat. 909; Pub. L. 98-620, title IV, § 402(43), Nov. 8, 1984, 98 Stat. 3360.)

#### Editorial Notes

##### AMENDMENTS

1984—Pub. L. 98-620 struck out provision that any suit brought under this section had precedence for hearing and trial over other cases on the civil docket of the court, and had to be tried and determined at the earliest practicable day.

#### Statutory Notes and Related Subsidiaries

##### CHANGE OF NAME

Act June 25, 1948, eff. Sept. 1, 1948, substituted "United States attorney" for "district attorney of the United States." See section 541 of Title 28, Judiciary and Judicial Procedure, and Historical and Revision Notes thereunder.

The words "district court" substituted for "district or circuit court" in two places to conform to act Mar. 3, 1911, which abolished the circuit courts and transferred their powers and duties to the district courts.

##### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as a note under section 1657 of Title 28, Judiciary and Judicial Procedure.

#### § 1063. 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.

(Feb. 25, 1885, ch. 149, § 3, 23 Stat. 322.)

#### Editorial Notes

##### REFERENCES IN TEXT

The public land laws of the United States, referred to in text, are classified generally to this title.

#### § 1064. Violations of chapter; punishment

Any person violating any of the provisions of this chapter, 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 \$1,000, or be imprisoned not exceeding one year, or both, for each offense.

(Feb. 25, 1885, ch. 149, § 4, 23 Stat. 322; Mar. 10, 1908, ch. 75, 35 Stat. 40.)

#### § 1065. Summary removal of inclosures

The President is authorized to take such measures as shall be necessary to remove and destroy any unlawful inclosure of any of the public lands mentioned in this chapter, and to employ civil or military force as may be necessary for that purpose.

(Feb. 25, 1885, ch. 149, § 5, 23 Stat. 322.)

#### § 1066. Permission of Secretary to sue

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 chapter without authority from the Secretary of the Interior.