

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; Nov. 8, 1984, Pub. L. 98-620, title IV, § 402(43), 98 Stat. 3360.)

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.

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.

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.

FEDERAL RULES OF CIVIL PROCEDURE

Precedence of actions, see rule 40, Title 28, Appendix, Judiciary and Judicial Procedure.

Process, see rule 4.

§ 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.)

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.

(Feb. 25, 1885, ch. 149, § 6, 23 Stat. 322.)

CHAPTER 25A—LANDS HELD UNDER COLOR OF TITLE

Sec.	
1068.	Lands held in adverse possession; issuance of patent; reservation of minerals; conflicting claims.
1068a.	Appraisal.
1068b.	Mineral reservation.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 1721 of this title.

§ 1068. Lands held in adverse possession; issuance of patent; reservation of minerals; conflicting claims

The Secretary of the Interior (a) shall, whenever it shall be shown to his satisfaction that a tract of public land has been held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for more than twenty years, and that valuable improvements have been placed on such land or some part thereof has been reduced to cultivation, or (b) may, in his discretion,

whenever it shall be shown to his satisfaction that a tract of public land has been held in good faith and in peaceful, adverse, possession by a claimant, his ancestors or grantors, under claim or color of title for the period commencing not later than January 1, 1901, to the date of application during which time they have paid taxes levied on the land by State and local governmental units, issue a patent for not to exceed one hundred and sixty acres of such land upon the payment of not less than \$1.25 per acre: *Provided*, That where the area so held is in excess of one hundred and sixty acres the Secretary may determine what particular subdivisions, not exceeding one hundred and sixty acres, may be patented hereunder: *Provided further*, That coal and all other minerals contained therein are reserved to the United States; that said coal and other minerals shall be subject to sale or disposal by the United States under applicable leasing and mineral land laws, and permittees, lessees, or grantees of the United States shall have the right to enter upon said lands for the purpose of prospecting for and mining such deposits: *And provided further*, That no patent shall issue under the provisions of this chapter for any tract to which there is a conflicting claim adverse to that of the applicant, unless and until such claim shall have been finally adjudicated in favor of such applicant.

(Dec. 22, 1928, ch. 47, §1, 45 Stat. 1069; July 28, 1953, ch. 254, §1, 67 Stat. 227.)

REFERENCES IN TEXT

The leasing and mineral land laws, referred to in text, probably mean the mineral leasing laws which have been defined in sections 351, 505, 530, and 541e of Title 30, Mineral Lands and Mining, to mean acts Oct. 20, 1914, ch. 330, 38 Stat. 741; Feb. 25, 1920, ch. 85, 41 Stat. 437; Apr. 17, 1926, ch. 158, 44 Stat. 301; and Feb. 7, 1927, ch. 66, 44 Stat. 1057. The act of Oct. 20, 1914, was repealed by Pub. L. 86-252, §1, Sept. 9, 1959, 73 Stat. 490. The act of Feb. 25, 1920, is known as the Mineral Leasing Act and is classified generally to chapter 3A (§181 et seq.) of Title 30. The act of Apr. 17, 1926, is classified generally to subchapter VIII (§271 et seq.) of chapter 3A of Title 30. The act of Feb. 7, 1927, is classified principally to subchapter IX (§281 et seq.) of chapter 3A of Title 30. For complete classification of these Acts to the Code, see Tables.

AMENDMENTS

1953—Act July 28, 1953, provided for mandatory issuance of land patents to certain adverse possessors and broadened discretionary power of Secretary to issue patents to parties who have paid taxes on certain public lands since Jan. 1, 1901.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1721 of this title.

§ 1068a. Appraisal

Upon the filing of an application to purchase any lands subject to the operation of this chapter, together with the required proof, the Secretary of the Interior shall cause the lands described in said application to be appraised, said appraisal to be on the basis of the value of such lands at the date of appraisal, exclusive of any increased value resulting from the development or improvement of the lands by the applicant or his predecessors in interest, and in such appraisal the Secretary shall consider and give full effect to the equities of any such applicant.

(Dec. 22, 1928, ch. 47, §2, 45 Stat. 1070.)

§ 1068b. Mineral reservation

If the claimant requests that the patent to be issued under this chapter not contain a mineral reservation and if he can establish to the satisfaction of the Secretary that the requirements of this chapter have been complied with by such claimant and his predecessors for the period commencing not later than January 1, 1901, to the date of application, no mineral reservation shall be made unless the lands are, at the time of issuance of the patent, within a mineral withdrawal or subject to an outstanding mineral lease.

(Dec. 22, 1928, ch. 47, §3, as added July 28, 1953, ch. 254, §2, 67 Stat. 228.)

CHAPTER 26—ABANDONED MILITARY RESERVATIONS

§§ 1071 to 1073. Repealed. Oct. 31, 1951, ch. 654, §1(114), 65 Stat. 706

Section 1071, act July 5, 1884, ch. 214, §1, 23 Stat. 103, provided for designation by President of abandoned military reservations for disposition by Secretary of the Interior.

Section 1072, act July 5, 1884, ch. 214, §2, 23 Stat. 103, related to survey or subdivision of those lands and appraisal, advertisement and sale and rights of settlers.

Section 1073, act July 5, 1884, ch. 214, §3, 23 Stat. 103, related to sale of improvements or other property on those reservations.

§ 1074. Repealed. Pub. L. 94-579, title VII, § 703(a), Oct. 21, 1976, 90 Stat. 2789

Section, act July 5, 1884, ch. 214, §5, 23 Stat. 104, authorized disposition of mineral lands of vacated military reservations under mineral-land laws of United States.

EFFECTIVE DATE OF REPEAL

Section 703(a) of Pub. L. 94-579 provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.

§ 1075. Repealed. Pub. L. 94-579, title VII, §§ 702, 703(a), Oct. 21, 1976, 90 Stat. 2787, 2789

Section, act Aug. 21, 1916, ch. 361, 39 Stat. 518, provided for applicability of homestead and desert land laws to military reservations in Nevada.

EFFECTIVE DATE OF REPEAL

Section 702 of Pub. L. 94-579 provided that the repeal made by that section is effective on and after Oct. 21, 1976, except such effective date to be on and after tenth anniversary of date of approval of this Act, Oct. 21, 1976, insofar as homestead laws apply to public lands in Alaska.

Section 703(a) of Pub. L. 94-579 additionally provided that the repeal made by that section is effective on and after Oct. 21, 1976.

SAVINGS PROVISION

Repeal by Pub. L. 94-579 not to be construed as terminating any valid lease, permit, patent, etc., existing on Oct. 21, 1976, see section 701 of Pub. L. 94-579, set out as a note under section 1701 of this title.