

## CODIFICATION

Section was formerly classified to section 4710 of Title 48, Territories and Insular Possessions.

## ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, on issuance of Proc. No. 3269, Jan. 3, 1959, 24 F.R. 81, 73 Stat. c16, as required by sections 1 and 8(c) of Pub. L. 85-508, July 7, 1958, 72 Stat. 339, set out as notes preceding section 21 of Title 48, Territories and Insular Possessions.

## CHAPTER 9—DESERT-LAND ENTRIES

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**§ 321. Entry right generally; extent of right to appropriate waters**

It shall be lawful for any citizen of the United States, or any person of requisite age "who may be entitled to become a citizen, and who has filed his declaration to become such" and upon payment of 25 cents per acre—to file a declaration under oath with the officer designated by the Secretary of the Interior of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one-half section, by conducting water upon the same, within the period of three years thereafter: *Provided, however,* That the right to the use of water by the person so conducting the same, on or to any tract of desert land of three hundred and twenty acres shall depend upon bona fide prior appropriation; and such right shall not exceed the amount of water actually appropriated, and necessarily used for the purpose of irrigation and reclamation; and all surplus water over and above such actual appropriation and use, together with the water of all lakes, rivers, and other sources of water supply upon the public lands and not navigable, shall remain and be held free for the appropriation

and use of the public for irrigation, mining, and manufacturing purposes subject to existing rights. Said declaration shall describe particularly said one-half section of land if surveyed, and, if unsurveyed, shall describe the same as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the officer designated by the Secretary of the Interior of the reclamation of said tract of land in the manner aforesaid, and upon the payment to such officer of the additional sum of \$1 per acre for a tract of land not exceeding three hundred and twenty acres to any one person, a patent for the same shall be issued to him. Except as provided in section 3 of the Act of June 16, 1955, as amended, no person may make more than one entry under sections 321 to 323, 325, and 327 to 329 of this title. However, in that entry one or more tracts may be included, and the tracts so entered need not be contiguous. The aggregate acreage of desert land which may be entered by any one person under this section shall not exceed three hundred and twenty acres, and all the tracts entered by one person shall be sufficiently close to each other to be managed satisfactorily as an economic unit, as determined under rules and regulations issued by the Secretary of the Interior.

(Mar. 3, 1877, ch. 107, §1, 19 Stat. 377; Aug. 30, 1890, ch. 837, §1, 26 Stat. 391; Mar. 3, 1891, ch. 561, §2, 26 Stat. 1096; Oct. 28, 1921, ch. 114, §1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100; Pub. L. 85-641, §1, Aug. 14, 1958, 72 Stat. 596.)

## REFERENCES IN TEXT

Section 3 of the Act of June 16, 1955, referred to in text, is section 3 of act June 16, 1955, ch. 145, 69 Stat. 138, as amended, which is set out as an Additional Desert-Land Entry note under section 83 of Title 30, Mineral Lands and Mining.

## CODIFICATION

The original text provided for the sale of 640 acres. The aggregate quantity which any person could acquire under all the land laws was limited, however, to 320 acres by act Aug. 30, 1890 (set out as section 212 of this title) except in the case of mineral lands.

## AMENDMENTS

1958—Pub. L. 85-641 permitted entry on one or more tracts, not contiguous, but sufficiently close to each other to be managed satisfactorily as an economic unit.

## TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Officer designated by the Secretary of the Interior" and "such officer" substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

Previously, references to register and receiver changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated offices of register and receiver and provided for a single officer to be known as register.

ARIZONA ENTRIES DEPENDENT UPON PERCOLATING  
WATERS

Act Aug. 4, 1955, ch. 548, 69 Stat. 491, provided: "The requirement of section 1 of the Desert Land Act of March 3, 1877 (19 Stat. 377) [this section], that the right to the use of water by a desert land entryman 'shall depend upon bona fide prior appropriation' shall be waived in the case of all desert land entries which have heretofore been allowed and are subsisting on the effective date of this Act [Aug. 4, 1955] which are dependent upon percolating waters for their reclamation, and which are situated in the State of Arizona under the laws of which the percolating waters upon which the entries are dependent are not subject to the doctrine of prior appropriation but are usable under State law for irrigation and reclamation purposes."

## SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

**§ 322. Desert lands defined; question how determined**

All lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of sections 321 to 323, 325, and 327 to 329 of this title, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated.

The determination of what may be considered desert land shall be subject to the decision and regulation of the Secretary of the Interior or such officer as he may designate.

(Mar. 3, 1877, ch. 107, §§2, 3, 19 Stat. 377; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

## CODIFICATION

The first paragraph of this section is from section 2 of act Mar. 3, 1877.

The second paragraph of this section is from the last clause of section 3 of act Mar. 3, 1877. The first clause of section 3 is incorporated in section 323 of this title.

## TRANSFER OF FUNCTIONS

"Secretary of the Interior or such officer as he may designate" substituted for "Commissioner of the General Land Office" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished General Land Office and Commissioner thereof and transferred functions of General Land Office to a new agency in Department of the Interior to be known as Bureau of Land Management. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

## SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

**§ 323. Application to certain States**

Sections 321 to 323, 325, and 327 to 329 of this title shall only apply to and take effect in the States of California, Colorado, Oregon, Nevada, Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico, and North and South Dakota.

(Mar. 3, 1877, ch. 107, §§3, 8, 19 Stat. 377; Mar. 3, 1891, ch. 561, §2, 26 Stat. 1097; Jan. 6, 1921, ch. 12, 41 Stat. 1086.)

## CODIFICATION

Section is from the first clause of section 3 of act Mar. 3, 1877, and the first clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891.

The second clauses of section 3 and 8 of act Mar. 3, 1877, are incorporated in the second paragraph of section 322 and section 325 of this title, respectively.

The first clause of section 3 of act Mar. 3, 1877, provided that "this act shall only apply to and take effect in the States of California, Oregon and Nevada, and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota".

The first clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891, provided for the inclusion of Colorado.

The Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota have become States since the enactment of act Mar. 3, 1877, the Territory of Dakota being divided, to form the States of North and South Dakota.

## SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

**§ 324. Assignment of entries**

No assignment after March 28, 1908, of an entry made under sections 321 to 323, 325, and 327 to 329 of this title shall be allowed or recognized, except it be to an individual who is shown to be qualified to make entry under said sections of the land covered by the assigned entry, and such assignments may include all or part of an entry; but no assignment to or for the benefit of any corporation or association shall be authorized or recognized.

(Mar. 28, 1908, ch. 112, §2, 35 Stat. 52.)

**§ 325. Resident citizenship of State as qualification for entry**

Excepting in the State of Nevada, no person shall be entitled to make entry of desert lands unless he be a resident citizen of the State or Territory in which the land sought to be entered is located.

(Mar. 3, 1877, ch. 107, §8, as added Mar. 3, 1891, ch. 561, §2, 26 Stat. 1097; amended Jan. 6, 1921, ch. 12, 41 Stat. 1086.)

## CODIFICATION

Section is comprised of the second clause of section 8 of act Mar. 3, 1877, as added by act Mar. 3, 1891. The first clause of section 8 of act Mar. 3, 1877, is incorporated in section 323 of this title.

Act Jan. 6, 1921, inserted introductory exception phrase.

## SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

**§ 326. Unsurveyed lands not subject to entry; preferential right of entry after survey**

From and after March 28, 1908, the right to make entry of desert lands under the provisions of sections 321 to 323, 325, and 327 to 329 of this title, shall be restricted to surveyed public lands of the character contemplated by said sections, and no such entries of unsurveyed lands shall be allowed or made of record: *Provided, however,*

That any individual qualified to make entry of desert lands under said sections who has, prior to survey, taken possession of a tract of unsurveyed desert land not exceeding in area three hundred and twenty acres in compact form, and has reclaimed or has in good faith commenced the work of reclaiming the same, shall have the preference right to make entry of such tract under said sections, in conformity with the public land surveys, within ninety days after the filing of the approved plat of survey in the district land office.

(Mar. 28, 1908, ch. 112, § 1, 35 Stat. 52.)

**§ 327. Filing irrigation plan; association of entrymen**

At the time of filing the declaration required in section 321 of this title the party shall also file a map of said land, which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land, and prepare it to raise ordinary agricultural crops, and shall also show the source of the water to be used for irrigation and reclamation. Persons entering or proposing to enter separate sections, or fractional parts of sections, of desert lands, may associate together in the construction of canals and ditches for irrigating and reclaiming all of said tracts, and may file a joint map or maps showing their plan of internal improvements.

(Mar. 3, 1877, ch. 107, § 4, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096.)

EXISTING CLAIMS; REPEALS

Section 6 of act Mar. 3, 1877, as added by act Mar. 3, 1891, § 2, provided that existing claims should not be affected by act Mar. 3, 1891, but might be perfected under sections 321 to 323 of this title, or under sections 325 and 327 to 329 of this title, at the option of the claimant, and also repealed all acts and parts of acts in conflict with act Mar. 3, 1891.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

**§ 328. Expenditures and cultivation requirements**

No land shall be patented to any person under sections 321 to 323, 325, and 327 to 329 of this title unless he or his assignors shall have expended in the necessary irrigation, reclamation, and cultivation thereof, by means of main canals and branch ditches, and in permanent improvements upon the land, and in the purchase of water rights for the irrigation of the same, at least \$3 per acre of whole tract reclaimed and patented in the manner following: Within one year after making entry for such tract of desert land as aforesaid the party so entering shall expend not less than \$1 per acre for the purposes aforesaid; and he shall in like manner expend the sum of \$1 per acre during the second and also during the third year thereafter, until the full sum of \$3 per acre is so expended. Said party shall file during each year with the officer designated by the Secretary of the Interior proof, by the affidavits of two or more credible witnesses, that the full sum of \$1 per acre has been expended in such

necessary improvements during such year, and the manner in which expended, and at the expiration of the third year a map or plan showing the character and extent of such improvements. If any party who has made such application shall fail during any year to file the testimony aforesaid the lands shall revert to the United States, and the 25 cents advanced payment shall be forfeited to the United States, and the entry shall be canceled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinbefore prescribed, provided that he then makes the required proof of reclamation to the aggregate extent of \$3 per acre: *Provided*, That proof be further required of the cultivation of one-eighth of the land.

(Mar. 3, 1877, ch. 107, § 5, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; amended 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

"Officer designated by the Secretary of the Interior" substituted for "register" on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

**§ 329. Issue of patent on final proof; citizenship requirement as to patentee; limit as to amount of holding**

At any time after filing the declaration, and within the period of four years thereafter, upon making satisfactory proof to the officer designated by the Secretary of the Interior of the reclamation and cultivation of said land to the extent and cost and in the manner aforesaid, and substantially in accordance with the plans herein provided for, and that he or she is a citizen of the United States, and upon payment to such officer of the additional sum of \$1 per acre for said land, a patent shall issue therefor to the applicant or his assigns; but no person or association of persons shall hold by assignment or otherwise prior to the issue of patent, more than three hundred and twenty acres of such arid or desert lands, but this section shall not apply to entries made or initiated prior to March 3, 1891: *Provided, however*, That additional proofs may be required at any time within the period prescribed by law, and that the claims or entries made under sections 321 to 323, 325, and 327 to 329 of this title shall be subject to contest, as provided by the law, relating to homestead cases, for illegal inception, abandonment, or failure to comply with the requirements of law, and upon satisfactory proof thereof shall be canceled, and the lands, and moneys paid therefor, shall be forfeited to the United States.

(Mar. 3, 1877, ch. 107, § 7, as added Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1097; amended Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

“Officer designated by the Secretary of the Interior” substituted for “register” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3, 1946, set out as a note under section 1 of this title.

Previously, references to register and receiver changed to register by acts Mar. 3, 1925 and Oct. 28, 1921, which consolidated offices of register and receiver and provided for a single officer to be known as register.

#### FIVE-YEAR PERIOD

The period of four years prescribed by this section was extended to five years as to pending entries where the time for final proof had not expired prior to Jan. 1, 1894, by act Aug. 4, 1894, ch. 208, 28 Stat. 226.

#### SECTION AS UNAFFECTED BY SUBMERGED LANDS ACT

Provisions of this section as not amended, modified or repealed by the Submerged Lands Act, see section 1303 of this title.

### § 330. Desert-land entry in addition to homestead entry

The right to make a desert-land entry shall not be denied to any applicant therefor who has already made an enlarged homestead entry of three hundred and twenty acres: *Provided*, That said applicant is a duly qualified entryman and the whole area to be acquired as an enlarged homestead entry and under the provisions of this section does not exceed four hundred and eighty acres.

(Feb. 27, 1917, ch. 134, 39 Stat. 946.)

### § 331. Reclamation requirements waived in favor of disabled soldiers, etc.

Any entryman under the desert-land laws, or any person entitled to preference right of entry under section 326 of this title, who after application or entry for surveyed lands or legal initiation of claim for unsurveyed lands, and prior to November 11, 1918, enlisted or was actually engaged in the United States Army, Navy, or Marine Corps during the war with Germany, who has been honorably discharged and because of physical incapacities due to service is unable to accomplish reclamation of and payment for the land, may make proof without further reclamation thereof or payments thereon under such rules and regulations as may be prescribed by the Secretary of the Interior, and receive patent for the land by him so entered or claimed, if found entitled thereto: *Provided*, That no such patent shall issue prior to the survey of the land.

(Mar. 1, 1921, ch. 102, § 2, as added Dec. 15, 1921, ch. 3, 42 Stat. 348.)

### § 332. Omitted

#### CODIFICATION

Section, act Aug. 7, 1917, ch. 48, 40 Stat. 250, suspended expenditure and cultivation requirements during World War I.

### § 333. Extension of time for completion of irrigation works

Any entryman under sections 321 to 323, 325, and 327 to 329 of this title who shall show to the satisfaction of the Secretary of the Interior or such officer as he may designate that he has in good faith complied with the terms, requirements, and provisions of said sections, but that because of some unavoidable delay in the construction of the irrigating works intended to convey water to the said lands, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said land, as required by said sections, shall, upon filing his corroborated affidavit with the land office in which said land is located, setting forth said facts, be allowed an additional period of not to exceed three years, within the discretion of the Secretary or such officer, within which to furnish proof as required by said sections of the completion of said work.

(Mar. 28, 1908, ch. 112, § 3, 35 Stat. 52; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

#### TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

“Secretary of the Interior or such officer as he may designate” and “Secretary or such officer” substituted for “Commissioner of the General Land Office” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished General Land Offices and Commissioner thereof and transferred function of General Land Office to a new agency in Department of the Interior to be known as Bureau of Land Management. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

#### OTHER EXTENSION PERIODS

Act June 24, 1921, ch. 28, 42 Stat. 66, provided that desert-land entries in certain townships in Riverside County, California, should not be canceled prior to May 1, 1923, for failure to make annual or final proof, that the requirements of the law should become operative from that date, and that a further extension might be granted.

A further extension of time to make final proof on desert-land entries in the counties of Benton, Yakima, and Klickitat, in the State of Washington, was authorized by act Feb. 28, 1911, ch. 180, 36 Stat. 960.

Previous provisions for extension of time for making final proofs under entries of desert lands in certain cases were made by act Aug. 4, 1894, ch. 208, 28 Stat. 226.

### § 334. Further extension of time for final proofs

The Secretary of the Interior may, in his discretion, in addition to the extension authorized by section 333 of this title or other law existing prior to April 30, 1912, grant to any entryman under the desert-land laws a further extension of the time within which he is required to make final proof: *Provided*, That such entryman shall,

by his corroborated affidavit filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of irrigation works intended to convey water to the land embraced in his entry he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor; but such extension shall not be granted for a period of more than three years, and this section shall not affect contests initiated for a valid existing reason: *Provided*, That the total extension of the statutory period for making final proof that may be allowed in any one case under this section, and any other statutes existing prior to April 30, 1912, of either general or local application, shall be limited to six years in the aggregate.

(Apr. 30, 1912, ch. 101, 37 Stat. 106.)

**§ 335. Further extension in cases not covered by sections 333 and 334 of this title**

The Secretary of the Interior may, in his discretion, extend the time within which final proof is required to be submitted upon any lawful pending desert-land entry made prior to March 4, 1915, such extension not to exceed three years from the date of allowance thereof: *Provided*, That the entryman or his duly qualified assignee has, in good faith, complied with the requirements of law as to yearly expenditures and proof thereof, and shall show, under rules and regulations to be prescribed by the Secretary of the Interior, that there is a reasonable prospect that, if the extension is granted, he will be able to make the final proof of reclamation, irrigation, and cultivation required by law: *Provided further*, That the foregoing shall apply only to cases wherein an extension or further extension of time may not properly be allowed under sections 333 and 334 of this title or other law existing prior to March 4, 1915: *Provided further*, That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit hereof.

(Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1161; Mar. 21, 1918, ch. 26, 40 Stat. 458.)

CODIFICATION

Section is comprised of second paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5, which was classified to section 26 of former Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(26), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583; third and fourth paragraphs of such section 5 are classified to sections 337 and 338 of this title, respectively.

Act Mar. 21, 1918 extended provisions to include entries made prior to Mar. 4, 1915, and added the last proviso. Act Mar. 4, 1915, related to entries made prior to July 1, 1914.

**§ 336. Further extension in addition to that authorized by sections 333 to 335 of this title**

The Secretary of the Interior may, in his discretion, in addition to the extensions authorized by sections 333 to 335 of this title or other law existing prior to February 25, 1925, grant to any entryman under the desert-land laws of the

United States a further extension of time of not to exceed three years within which to make final proof: *Provided*, That such entryman shall, by his corroborated affidavit, filed in the land office of the district where such land is located, show to the satisfaction of the Secretary that because of unavoidable delay in the construction of the irrigation works intended to convey water to the land embraced in his entry, he is, without fault on his part, unable to make proof of the reclamation and cultivation of said lands as required by law within the time limited therefor: *And provided further*, That the entryman, his heirs, or his duly qualified assignee, has in good faith complied with the requirements of law as to yearly expenditures and proof thereof, and shall show, under rules and regulations to be prescribed by the Secretary of the Interior, that there is a reasonable prospect that if the extension is granted he will be able to make the final proof of reclamation, irrigation, and cultivation required by law.

(Feb. 25, 1925, ch. 329, 43 Stat. 982.)

**§§ 336a, 336b. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787**

Section 336a, act July 30, 1956, ch. 778, § 1, 70 Stat. 715, related to absence during 1956 to 1959 due to economic conditions and protection of rights of entryman.

Section 336b, act July 30, 1956, ch. 778, § 2, 70 Stat. 716, related to homestead or desert land applications on file as of Mar. 1, 1956, and entries and rights of United States.

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.

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.

**§ 336c. Omitted**

CODIFICATION

Section, act July 30, 1956, ch. 778, § 3, 70 Stat. 716, provided that property rights of an entryman making an election under section 336a of this title or whose entry is allowed under section 336b of this title was a personal right, inheritable but not assignable.

**§ 336d. Repealed. Pub. L. 94-579, title VII, § 702, Oct. 21, 1976, 90 Stat. 2787**

Section, act July 30, 1956, ch. 778, § 4, 70 Stat. 716, set forth lands subject to protection of rights of entryman.

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.

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.

**§ 337. Entry, after expenditures, perfected as homestead entry**

Where it shall be made to appear to the satisfaction of the Secretary of the Interior, under rules and regulations to be prescribed by him, with reference to any lawful pending desert-land entry made prior to March 4, 1915, under which the entryman or his duly qualified assignee under an assignment made prior to March 4, 1915, has, in good faith, expended the sum of \$3 per acre in the attempt to effect reclamation of the land, that there is no reasonable prospect that, if the extension allowed by section 335 of this title or any law existing prior to March 4, 1915, were granted, he would be able to secure water sufficient to effect reclamation of the irrigable land in his entry or any legal subdivision thereof, the Secretary of the Interior may, in his discretion, allow such entryman or assignee five years from notice within which to perfect the entry in the manner required of a homestead entryman: *Provided*, That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit hereof.

(Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1161; Mar. 21, 1918, ch. 26, 40 Stat. 458.)

CODIFICATION

Section is comprised of third paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5, which was classified to section 26 of former Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(26), 63 Stat. 401, eff. July 1, 1949, re-numbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583; second and fourth pars. of such section 5 are classified to sections 335 and 338 of this title, respectively.

Act Mar. 21, 1918 extended the provisions to include entries made prior to Mar. 4, 1915 and added the last proviso. Act Mar. 4, 1915 related to entries made prior to July 1, 1914.

**§ 338. Election to perfect entry; final proof**

Any desert-land entryman or his assignee entitled to the benefit of section 337 of this title may, if he shall so elect within sixty days from the notice therein provided, pay to the officer designated by the Secretary of the Interior of the local land office the sum of 50 cents per acre for each acre embraced in the entry, and thereafter perfect such entry upon proof that he has upon the tract permanent improvements conducive to the agricultural development thereof of the value of not less than \$1.25 per acre, and that he has, in good faith, used the land for agricultural purposes for three years and the payment to the officer, at the time of final proof, of the sum of 75 cents per acre: *Provided*, That in such case final proof may be submitted at any time within five years from the date of the entryman's election to proceed as provided in this section, and in the event of failure to perfect the entry as herein provided, all moneys theretofore paid shall be forfeited and the entry canceled: *Provided*, That in cases where such entries have been assigned prior to March 4, 1915, the assignees shall, if otherwise qualified, be entitled to the benefit hereof.

(Mar. 4, 1915, ch. 147, § 5, 38 Stat. 1162; Mar. 21, 1918, ch. 26, 40 Stat. 458; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

CODIFICATION

Section is comprised of fourth paragraph of section 5 of act Mar. 4, 1915. First paragraph of such section 5, which was classified to section 26 of former Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602(a)(26), 63 Stat. 401, eff. July 1, 1949, re-numbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583; second and third paragraphs of such section 5 are classified to sections 335 and 337 of this title, respectively.

Act Mar. 21, 1918 added the last proviso.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

“Officer designated by the Secretary of the Interior” substituted for “register” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3, of 1946, set out as a note under section 1 of this title.

Previously, references to “receiver” changed to “register” by acts Oct. 28, 1921, and Mar. 3, 1925, which consolidated offices of register and receiver and provided for a single officer to be known as register.

**§ 339. Perfection of title to entry; supplementary provisions to sections 335, 337, and 338**

Where it shall be made to appear to the satisfaction of the Secretary of the Interior with reference to any lawful pending desert-land entry made prior to July 1, 1925, under which the entryman or his duly qualified assignee under an assignment made prior to March 4, 1929, has in good faith expended the sum of \$3 per acre in the attempt to effect reclamation of the land, that there is no reasonable prospect that he would be able to secure water sufficient to effect reclamation of the irrigable land in his entry or any legal subdivision thereof, the Secretary of the Interior may, in his discretion, allow such entryman or assignee ninety days from notice within which to pay to the officer designated by the Secretary of the Interior of the United States land office 25 cents an acre for the land embraced in the entry and to file an election to perfect title to the entry under the provisions of this section, and thereafter within one year from the date of filing of such election to pay to such officer the additional amount of 75 cents an acre, which shall entitle him to a patent for the land: *Provided*, That in case the final payment be not made within the time prescribed the entry shall be canceled and all money theretofore paid shall be forfeited.

(Mar. 4, 1929, ch. 687, 45 Stat. 1548; Feb. 14, 1934, ch. 9, 48 Stat. 349; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with

power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out under section 1451 of this title.

“Officer designated by the Secretary of the Interior” and “such officer” substituted for “register” on authority of section 403 of Reorg. Plan No. 3 of 1946, which abolished all registers of district land offices and transferred functions of register of district land offices to Secretary of the Interior. See section 403 of Reorg. Plan No. 3 of 1946, set out as a note under section 1 of this title.

#### CHAPTER 10—UNDERGROUND-WATER RECLAMATION GRANTS

##### §§ 351 to 355. Repealed. Pub. L. 88-417, § 1, Aug. 11, 1964, 78 Stat. 389

Section 351, act Oct. 22, 1919, ch. 77, § 1, 41 Stat. 293, authorized Secretary of the Interior to grant permits to explore for underground water.

Section 352, acts Oct. 22, 1919, ch. 77, § 2, 41 Stat. 294; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to designation by Secretary of lands subject to disposal.

Section 353, acts Oct. 22, 1919, ch. 77, § 3, 41 Stat. 294; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, related to application for permit to explore for underground water.

Section 354, act Oct. 22, 1919, ch. 77, § 4, 41 Stat. 294, related to conditions of permit and its cancellation for failure to meet them.

Section 355, act Oct. 22, 1919, ch. 77, § 5, 41 Stat. 294, related to issuance of a patent to land on the development of a water supply.

#### SAVINGS PROVISION

Section 1 of Pub. L. 88-417 provided: “That, subject to any valid rights and obligations existing on the date of approval of this Act [Aug. 11, 1964], the Act of October 22, 1919 (41 Stat. 293; 43 U.S.C. 351-355, 357-360), is hereby repealed.”

#### PROCESSING OF APPLICATIONS FILED PRIOR TO AUGUST 11, 1964

Section 2 of Pub. L. 88-417 provided that: “Any valid application for permit under that Act [this chapter], on file with the Secretary of the Interior on the effective date of this Act [Aug. 11, 1964], may be processed in the same manner as if this Act [repealing sections 351 to 355 and 357 to 360 of this title] had not been enacted.”

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

Section, act Sept. 22, 1922, ch. 400, 42 Stat. 1012, extended time for development of underground water supplies with reclamation grants.

#### 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.

##### §§ 357 to 360. Repealed. Pub. L. 88-417, § 1, Aug. 11, 1964, 78 Stat. 389

Section 357, act Oct. 22, 1919, ch. 77, § 6, 41 Stat. 294, provided for disposition of land not included in patents.

Section 358, act Oct. 22, 1919, ch. 77, § 7, 41 Stat. 295, provided for payment of proceeds of land sales into reclamation fund.

Section 359, acts Oct. 22, 1919, ch. 77, § 8, 41 Stat. 295; Oct. 28, 1921, ch. 114, § 1, 42 Stat. 208; Mar. 3, 1925, ch. 462, 43 Stat. 1145; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100, provided for reservation to the United States of coal and mineral rights, and for disposition of such reserved rights.

Section 360, act Oct. 22, 1919, ch. 77, § 9, 41 Stat. 295, authorized Secretary to prescribe rules and regulations.

#### SAVINGS PROVISION

Sections repealed subject to valid rights and obligations existing on Aug. 11, 1964, see section 1 of Pub. L. 88-417, set out as a note under sections 351 to 355 of this title.

#### PROCESSING OF PENDING APPLICATIONS

Processing of applications filed prior to Aug. 11, 1964, to be in same manner as if Pub. L. 88-417 had not been enacted, see section 2 of Pub. L. 88-417, set out as a note under sections 351 to 355 of this title.

#### CHAPTER 11—DISCOVERY, DEVELOPMENT, AND MARKING OF WATER HOLES, ETC., BY GOVERNMENT

Sec.

- 361. Authority to explore for, develop, and mark water holes, etc.
- 362. Injury to signposts and filling up or fouling water supply.
- 363. Rules and regulations by Secretary.

##### § 361. Authority to explore for, develop, and mark water holes, etc.

The Secretary of the Interior is authorized and empowered, in his discretion in so far as the authorization made herein will permit, to discover, develop, protect, and render more accessible for the benefit of the general public, springs, streams, and water holes on arid public lands of the United States; and in connection therewith to erect and maintain suitable and durable monuments and signboards at proper places and intervals along and near the accustomed lines of travel and over the general area of said desert lands, containing information and directions as to the location and nature of said springs, streams, and water holes, to the end that the same may be more readily traced and found by persons in search or need thereof; also to provide convenient and ready means, apparatus, and appliances by which water may be brought to the earth's surface at said water holes for the use of such persons; also to prepare and distribute suitable maps, reports, and general information relating to said springs, streams, and water holes, and their specific location with reference to lines of travel.

(Aug. 21, 1916, ch. 360, § 1, 39 Stat. 518.)

##### § 362. Injury to signposts and filling up or fouling water supply

Whoever shall willfully or maliciously injure, destroy, deface, or remove any of said monuments or signposts, or shall willfully or maliciously fill up, render foul, or in anywise destroy or impair the utility of said springs, streams, or water holes, or shall willfully or maliciously interfere with said monuments, signposts, streams, springs, or water holes, or the purposes for which they are maintained and used, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.