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CIRCULAR,

To the Register and Receivers of the United States Land Office

GENERAL LAND OFFICE,
Sept. 15th 1841

Gentlemen:—Annexed is a copy of that portion of an act of Congress approved on the 4th instant, entitled

"An act to appropriate the proceeds of the sales of the public lands, and to grant pre-emption rights," which has relation to the subject of preemptions. Your attention is directed to the several provisions of that portion of said act, and your observance enjoined of the rules hereinafter stated, as prescribed by the Secretary of the Treasury, in accordance with the 12th section of said act.

The individual claiming the benefits of said act must be,

First, A citizen of the United States, or have filed his declaration of intention, to become a citizen.

Second, Either the head of a family, or a widow, or a single man over the age of twenty years.

Third, An inhabitant of the tract sought to be entered, upon which, in person, he has made a settlement and erected a dwelling house, since the 1st of June 1840, and prior to the time when the land is applied for; which land must, at the date of the settlement, have had the Indian title extinguished and been surveyed by the United States.

A person failing in any one of these requisites can have no claim by virtue of this act.

A person bringing himself within each of the above requirements by proof satisfactory to the Register and Receiver of the land district in which the lands may lie, taken pursuant to the rules hereinafter prescribed, will after having taken the affidavit required by the act, be entitled to enter, by legal subdivisions, any number of acres not exceeding one hundred and sixty, or a quarter section to include his residence, and he may avail himself of the same at any time prior to the day of the commencement of the public sale, including said tract where the land has not yet been proclaimed.

Where the land was subject to private entry, at the date of the settlement made since the 1st of June, 1840 and prior to the passage of this act, and the settler is desirous of securing the same under this act, he must give notice of his intention to purchase the same under its provisions, within three months from the passage of the law; that is, before the fourth day of December next.

Where the land shall hereafter become subject to private entry, and after that period a settlement shall be made, which the settler is desirous of securing under this act, such notice of his intention must be given within the thirty days after the date of such settlement. Such notice, in both cases, must be a written one describing the land settled upon, and declaring the intention of such persons to claim the same under the provisions of this act.

In the first case, the proof, affidavit and payment, must be made within twelve months after the passage of this act; and, in the second case, within twelve months after the date of such settlement.

These declaratory statements are to be regularly numbered by the Register in the order of the date of their reception, and entered in a suitable book, columned off, to show the number, date when received, name of the party, and description of the tract claimed, and monthly abstracts of the same are to be furnished to the General Land Office, with your other monthly returns.

The existence of the claims should be indicated on the township plates, by marking with red ink, a cross X, on the spot occupied by the claim, and also, with red ink, noting on the same spot the number of the declaratory statement in neat and very small figures, so as not to interfere with the regular annotations which will have to be made when the regular proof and payment shall have been made by the claimant, and his entry of the tract consummated. The existence of such claims should also be noted in pencil, on their appropriate places in their tract books.

The tracts liable to entry under this act, are some one of the following designations:

First, A regular quarter section, notwithstanding its quantity, may be a few acres more or less than one hundred and sixty; or a quarter section which, though fractional in quantity by the passage of a navigable stream through the same, is still bounded by regular sectional and quarter sectional lines.

Second, A fractional section, containing not over one hundred and sixty acres, or any tract being a detached or anomalous survey, made pursuant to law, and not exceeding said quantity.

Third, Two adjoining half quarter sections, (in all cases to be separated by a north line, except on the north side of townships where the surveys are so made as to throw the excess or deficiency on the north and west side of the township,) of the regular quarters mentioned in the first designation; or, two adjoining eighty acre subdivisions of

the irregular quarters found on the north and west side of townships, where more than two such subdivisions exist, or the excess may render them necessary; provided in the latter case the aggregate quantity does not exceed one hundred and sixty acres.

Fourth, Two half quarter or eighty acre subdivisions of a fractional or broken section, adjoining each other, the aggregate quantity not exceeding one hundred and sixty acres.

Fifth, A regular half quarter and an adjoining fractional section, or an adjoining half quarter subdivision of fractional section, the aggregate quantity not exceeding one hundred and sixty acres.

Sixth, If the pre-emptor should not wish to enter the quantity of one hundred and sixty acres, he may enter a single half quarter section, (made by a north and south line) or an eighty acre subdivision of a fractional section.

Seventh, One or more adjoining residuary lots may be entered, the aggregate not exceeding one hundred and sixty acres.

Eighth, A regular half quarter, a half quarter subdivision, or a fractional section, may each be taken with one or more residuary forty acre subdivisions lying adjoining, the aggregate not exceeding one hundred and sixty acres.

These lots can only be called "residuary," after the sale of the other portions of the same quarter section, or fractional quarter section, pursuant to the act approved April 5, 1832, authorizing such minor subdivisions.

It is evident, therefore, that forty acre subdivisions can in no case, be permitted, of land not yet proclaimed and offered at public sale.

Only one person on a quarter section is protected by this law, and that is the one who made the first settlement, provided he shall have conformed to the other provisions of the law.

A person who has once availed himself of the provisions of this act, cannot at any future period, or at another land office acquire another right under it.

No person who is the proprietor of three hundred and twenty acres of land in any State or territory of the United States, is entitled to the benefit of this act.

No person who shall quit or abandon his residence on his own land, to reside on the public and in the same State or Territory, is entitled to the benefits of this act.

No pre-emption right exists, by reason of a settlement on and inhabitation of a tract, unless at the date of such settlement the Indian title thereto had been extinguished, and the land surveyed by the United States.

Land is not properly, legally surveyed, until the surveyors made by the deputies are approved by the Surveyor General; but in accordance with the spirit and intent of the law, and for the purpose of bringing the settler within its provisions, the land is to be constructed as surveyed, when the requisite lines are run on the field and the corners established by the deputy surveyor.

No assignments or transfers of pre-emption rights can be recognized. The patents must issue to the claimants, in whose names alone all entries must be made.

Sundry descriptions of Land, which are exempted from the operations of this act.

1st. Lands included in any reservation by any treaty, law or proclamation of the President of the United States, and lands reserved for salines or other purposes.

2d. Lands reserved for the support of Schools.

3d. Lands acquired by either of the two last treaties with the Miami tribe of Indians in the State of Indiana, or which may be required of the Wyandot tribe of Indians in the State of Ohio, or other Indian reservation to which the title has been or may be extinguished by the United States at any time during the operation of this act.

4th. Sections of land reserved to the U. States, alternate to other sections granted to any of the States for the construction of any canal, rail road, or other public improvement.

5th. Sections or fractions of sections included within the limits of any incorporated towns.

6th. Every portion of the public lands which has been selected as a site for a city or town.

7th. Every parcel or lot of land actually settled and occupied for the purposes of trade, and not agriculture.

8th. All lands on which are situated any known salines or mines.

Persons claiming the benefit of this act, are required to file duplicate affidavits such as the law requires, and to furnish proof by one or more disinterested witnesses, to your entire satisfaction, of the facts necessary to establish the three requisites pointed out in the commencement of these instructions.

The witnesses are to be first duly sworn or affirmed to speak the truth and the whole truth, touching the subject of inquiry, by some officer competent to administer oaths, and affirmations; and, if not inconvenient,

by reason of distance of residence, from your office, or other good cause, must be examined by you, and the testimony reduced to writing in your presence, and signed by each witness and certified by the officer administering the oath or affirmation, who must also join your certifying as to the respectability and credit of each witness.

In case adverse claims shall be made to the same tract, each claimant must be notified of the time and place of taking testimony, and allowed the privilege of cross-examining the opposite witnesses, and of producing counter proof, which shall also be subject to cross-examination.

When, by reason of distance, sickness or infirmity, the witness cannot come before you, you are authorized to receive their depositions; which must be, in all other respects, conformable to the above requisitions.

The notice to adverse claimants should be in writing, and should be served in time to allow at least a day for every twenty miles the party may have to travel, in going to the place of taking evidence. The proof, in all cases, should consist of a simple detail of facts merely, and not of statements in broad or general terms, involving conclusions of law. It is your exclusive province to determine the legal conclusions arising from the facts. For instance, a witness should not be permitted to state that a claimant is the "head of a family," &c., following the words of the law, but should set forth the facts on which he grounds such allegation; because such a mode of testifying substitutes the judgment of the witness for yours, and allows him not only to determine the facts, but the law. A witness may possibly conscientiously testify that a minor son living with a widow mother, was the head of the family; and in another case, similar in point of fact, another witness, equally conscientious, might testify, that the widowed mother was the head of the family. There cannot be a uniform construction given to the law, if it is carelessly left to the opinion of the witness. You are therefore instructed not to receive as testimony or proof a general statement, which embodies in general terms, the conclusions of law, without stating the facts specially.

The witness must state, if the pre-emptor be the "head of the family," the facts which constitute him such, whether a husband having a wife and children or a widower, or an unmarried person, under twenty-one years of age having a family, either of relatives or others depending upon him, or hired persons, or slaves.

All the facts respecting the settlement in person, inhabitation or personal residence, the time of commencement, the manner and extent of continuance, as well as those showing the apparent objects should be stated.

It must be stated, that the claimant made the settlement on the land in person; that he has erected a dwelling upon the land; that the claimant lived in it, and made it his home, &c. By this means you will be enabled to determine whether or not the requisites of the law have been complied with in any given case. Should you decide against a claimant, who feel dissatisfied with such decision, may request in writing the opinion of this office thereon, you will forthwith forward all the original papers touching said claim, and a brief report of your reasons for rejecting it; and in the mean time will not permit the land claimed to be entered or sold without an order from the Department.

The affidavit of the claimant in reference to the fact of settlement, &c. need not be required. It is, in no case, legal evidence on these points, and therefore should not form a part of the proof in reference thereto. The only affidavit required of the claimant is that prescribed by the 13th section of the act, which is to be taken before the Register or Receiver.

No entry must be permitted until this affidavit is taken. Duplicates thereof must be signed by the claimant, and the fact of the oath being taken must be certified by the Register or Receiver administering it, one copy to be filed in your office, and the other to be transmitted to this office. Each entry made by virtue of this act must be designated by marking on the margin of your quarterly accounts, and monthly abstracts, opposite to the tract, the abbreviation "Pre'n 1841," and on the face of the receipt and of the certificate, "Pre-emption Act of 1841."

You will continue, unbroken, the regular series of numbers, for receipts and certificates. The original proof, affidavit and receipt, must be filed with the certificate of purchase, in each case; each paper being appropriately endorsed, and transmitted to this office with your monthly abstract, which must contain and show the aggregate of lands sold and the purchase money, at the foot of the abstract. Also a separate aggregate of the lands sold, and the purchase money, under each of the pre-emption acts by virtue of which any entries in that month may be made. No excuse can be allowed for negligence in observing this direction.

The forms for applications, receipts, and certificates, will be the same as those used for private entries. The distinct provision

for land subject to private entry rendering a separate form for lands of the latter description unnecessary.

Very respectfully, gentlemen,
Your obedient servant,
E. M. HUNTINGTON,
Commissioner.

MISCELLANEOUS.

Going to Texas.

The Yazoo Whig gives the following account of a family on its way to Texas. We don't blame the visitor for declining to travel with them:

Not long since might have been seen on the Vicksburg road, a staid looking old gentleman on horseback, with his coat buttoned tight around him and an umbrella hoisted over his head, protecting him from a drizzling rain that had that evening "set in" with every indication of a continuance. His horse moved sluggishly along, as tho' jaded by a long journey. The rider seemed anxiously looking for a whereabouts to pass the night, when a fire a short distance from the road attracted his attention.

He rode to the spot, and beheld, what is very common in this section of the country, an encampment of a family "a-moving."—By the fire, with logs of wood for pillows, and each wrapped in a blanket, were lying two females—near them a small child. Leaning against the fore wheel of the wagon was a lad of about ten or eleven years of age; he wore a pair of linsey-woolsey trowsers, too short for him, a round-about that reached down half way from his shoulders to his waist, no hat, and possessing one of those tow-heads so frequently to be met with among the pine wood nondescripts of Alabama. There he stood crying most vociferously,

"Ba!—a—a—a—Ba—a—a—a!" roared pine wood.

The old gentleman rode up to him, and in a tone of voice calculated to soothe the lad's distress, addressed him thus:

"What's the matter my son?"

"Matter! Fire and d—n, stranger!—Don't you see mammy there shaking with the ager. Dadd's gone a fishing! Jim's got every cent of money there is, playing poker at a bit ante! Bob Stokes is gone on ahead with Nance! Sal's so corned she don't know that stick of wood from seven dollars and a half! Every one of the horses is loose!—There's no meal in the wagon! The skillett broke! The baby's in a "bad fix," and it's half a mile to the creek! and I don't care a d—n if I never see Texas!"

"Ba!—a—a—a—Ba!—a—a!"

The old gentleman gave spur to his horse and again moved forward, not having any desire to prolong his chance visit with a family going to Texas.

The Mad Bull.

I was once says Sir Walter Scott, proceeding from the old to the new town of Edinburgh, by the earthen mound, at the head of which I was lead for a few minutes, to look at a bull that had got into an enclosure there, after the unmerciful butcher lads had driven it fairly mad. The crowd that gathered on the outside of the fence, increased the brute's fierceness. At last they began to cast ropes over its horns and around its neck, thereby to pull it to a strong hold, that it might be slain where it was, which drove it to its most desperate fury. Its eyes now glared madness, there were handfuls of foam flying from its mouth, with its fore-feet it pawed the ground, throwing lumps of earth as high as the adjoining houses, and it belled so as to make one quake. It was any thing but an agreeable sight, so I moved away homewards. But before I got to the foot of the mound, an alarming shout caused me to look back, when I perceived the animal at no great distance behind me, coming on with all its rage. I had just time to spring to the top of the wall that lined the foot-path, and to behold its further progress.

I shudder to this hour when I think of what immediately I saw. Among the people that were near me and in jeopardy, was a young lady, and she wore a red mantle, which is a very offensive color to many of the brute creation. As I did, she also made for the wall, but had neither time nor strength to gain its top, ere the infuriated animal drove toward her. She turned her back, however, to the inaccessible eminence, as if to see the full extent of her fate, and

then stood as nailed to it, save only her arms which she threw aloft in her despair, which would indeed have been as fragile in her defence as a rotten reed. Her tender body would have been nothing against a foe that could have broken bars of brass, and horns that might have transfixed an animal of its own size. As I have said, directly towards the unprotected young lady the bull drove forward; with steadfast eye he came on; he mistook his mark not an inch; for as the multitude behind him yelled their horror, he dashed with prodigious strength and madness against her.

Was it not a miracle that the dear young woman escaped unharmed and untouched? Yes, it is true; for the terrific animal struck so accurately, that a horn snote the dead wall on either hand, thus embracing, but from their great length, shielding her person from even the slightest damage. But the staunch wall stood the tremendous thrust, and sent back with rebounding force, to a great distance, the huge and horrible brute, throwing him prostrate, never to rise again; for numberless destructive weapons were plunged into him before he had time to recover from his recoil.—[Parley's Magazine.

Forty Years Ago.

Forty years ago, literature meant learning, and was supported by common sense.—Refined nonsense had no advocates, and was pretty generally kicked out of doors.

Forty years ago, there were but few merchants in the country, few insolvent debtors;—and they rarely imprisoned for debt.

Forty years ago, young ladies of the first respectability learned music—but it was the humming of the spinning wheel, and learned the necessary steps of dancing, in following it. Their forte piano was a loom, their parol a broom, and their novels the Bible.

Forty years ago, the young gentleman hood corn, chopped wood at the door, and went to school in the winter to learn reading, writing and arithmetic.

Forty years ago, there was no such thing as balls in the summer, and but few in the winter, except snow balls.

Forty years ago, when a mechanic finished his work, he was paid for it.

Forty years ago, printers were paid, and therefore enabled to pay their debts.. What a falling off!

The Temper--An Anecdote.

I recollect reading an anecdote some time since, in the Journal of one of our popular tourists, which exhibited the disastrous effects that sometimes ensue for the want of self-government on trifling occasions. As far as I can remember, the story ran as follows:

The American tourist encountered, while travelling in a diligence in France, and elderly lady, who was a native of the country, and whose amiable and attractive manners, and good humored endurance of fatigue and inconvenience, excited the commendations of the American. The prepossessions was mutual, and before the travellers separated, the matron threw out sundry hints for the practical guidance of her more youthful associate. Among these, was a judicious caution to him against marrying any woman, before he had become well acquainted with her domestic virtues. To this end, she advised him never to visit any young lady as an admirer, at a regular hour on each returning day. The traveller manifested surprise, and inquired, "what possible evil could result from paying his visit to the object of his admiration, at stated seasons?"

"Very great deceptions as to character," she replied, "might probably be the consequence, inasmuch as the young lady knowing when her lover was to be expected, would be prepared in holiday dress and smiles, to welcome him. A friend of mine," she said, "had learned a painful lesson, by thus making his calls at a particular hour in the evening, on fair acquaintance. So admirably had she uniformly appeared at these times, and so attractive, that his heart had been taken captive; and the young lady and her family smiling on his suit, it was about to be consummated; when a short time previous to that fixed on for their marriage, having occasion to leave town on business during the afternoon, he called unexpectedly, at an early hour, of the morning, to take farewell. The hall door was open, and he entered unannounced.