

### § 316o. Laws applicable.

Laws now applicable to lands or resources in the Territory of Alaska shall continue in force and effect to the same extent and in the same manner after March 4, 1927, as before, and nothing in this subchapter shall preclude or prevent ingress or egress upon the lands in districts for any purpose authorized by any such law, including prospecting for and extraction of minerals. (Mar. 4, 1927, ch. 513, § 16, 44 Stat. 1455.)

#### ADMISSION OF ALASKA AS STATE

Admission of Alaska into the Union was accomplished Jan. 3, 1959, upon 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

- Sec.
321. Entry right generally; extent of right to appropriate waters.
322. Desert lands defined; question how determined.
323. Application to certain States.
324. Assignment of entries.
325. Resident citizenship of State as qualification for entry.
326. Unsurveyed lands not subject to entry; preferential right of entry after survey.
327. Filing irrigation plan; association of entrymen.
328. Expenditures and cultivation requirements.
329. Issue of patent on final proof; citizenship requirement as to patentee; limit as to amount of holding.
330. Desert-land entry in addition to homestead entry.
331. Reclamation requirements waived in favor of disabled soldiers, etc.
332. Expenditure and cultivation requirements suspended in favor of officers and enlisted men during war with Germany.
333. Extension of time for completion of irrigation works.
334. Further extension of time for final proofs.
335. Further extension in cases not covered by sections 333 and 334 of this title.
336. Further extension in addition to that authorized by sections 333 to 335 of this title.
- 336a. Suspension of cultivation and improvement operations during 1956 to 1959 due to economic conditions; protection of entryman's rights; filing of notice of intention and grant to United States.
- 336b. Same; applications on file as of March 1, 1956; filing of notice of intention; date of entry; rights of United States.
- 336c. Same; property right as personal and inheritable; assignment prohibited.
- 336d. Same; lands to which applicable.
337. Entry, after expenditures, perfected as homestead entry.
338. Election to perfect entry; final proof.
339. Perfection of title to entry; supplementary provisions to sections 335, 337, and 338.
- § 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; Aug. 14, 1958, Pub. L. 85-641, § 1, 72 Stat. 596.)

#### REFERENCES IN TEXT

Section 3 of the act of June 16, 1955, as amended, referred to in the text, is set out as a note under section 83 of Title 30, Mineral Lands and Mining.

#### CODIFICATION

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

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

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers,

agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to register in this section were changed to "officer designated by the Secretary of the Interior" and "such officer" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

#### 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.

#### CROSS REFERENCES

Final proofs at any time within 4 years, see section 329 of this title.

No person to hold by assignment or otherwise prior to issue of patent more than 320 acres of arid or desert land, see section 329 of this title.

Sale of isolated or disconnected tracts of public lands notwithstanding this section, see section 1171 of this title.

Unsurveyed lands not subject to entry, see section 326 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 327, 328, 329, 333, 1075, 1171 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" was substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 323, 324, 326, 328, 329, 333, 1075 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. 1096; 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 324, 326, 323, 329, 333, 1075 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.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 449 of this title.

#### § 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; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; 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 provided for the 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 328, 329, 333, 1075 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.)

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 331 of this title.

**§ 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—323 of this title, or under sections 325 and 327—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.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 328, 329, 333, 1075 of this title.

**§ 328. Expenditures and cultivation requirements.**

No land shall be patented to any person under sections 321 to 323, 324, 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; Mar. 3, 1891, ch. 561, § 2, 26 Stat. 1096; 1946 Reorg. Plan No. 3, § 403, eff. July 16, 1946, 11 F. R. 7876, 60 Stat. 1100.)

**TRANSFER OF FUNCTIONS**

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "officer designated by the Secretary of the Interior" were substituted for "register" by 1946 Reorg. Plan No. 3. See note under former 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.

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in sections 207, 208, 321, 322, 323, 324, 326, 329, 333, 1075 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 re-

quired 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; 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.)

#### CODIFICATION

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

#### TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

References to "receiver" were changed to "register" by acts Oct. 28, 1921, and Mar. 3, 1925. See note under former sections 70, 71 of this title. References to "register" were changed to "officer designated by the Secretary of the Interior" and "such officer" on authority of 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

#### 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.

#### CROSS REFERENCES

Extension of time for final proofs, see sections 333, 334 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 207, 203, 321, 322, 323, 324, 326, 328, 333, 1075 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.)

#### CROSS REFERENCES

Disabled veterans excused from fulfilling residence and cultivation requirements, see section 238 of this title.

#### § 332. Expenditure and cultivation requirements suspended in favor of officers and enlisted men during war with Germany.

#### 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

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

"Secretary of the Interior or such officer as he may designate" and "Secretary or such officer" were substituted for "Commissioner of the General Land Office" by 1946 Reorg. Plan No. 3. See note under former 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 334, 335, 336 of this title.

§ 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.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 335, 336 of this title.

§ 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 was classified to section 26 of Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602(a) (20), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1960, ch. 849, § 6 (a), (b), 64 Stat. 583, and is covered by

section 481 of Title 40, Public Buildings, Property and Works; 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.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 336, 337 of this title.

§ 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. Suspension of cultivation and improvement operations during 1956 to 1959 due to economic conditions; protection of entryman's rights; filing of notice of intention and grant to United States.

Any person who holds a homestead entry on public lands which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on the date of approval of this Act, is granted leave of absence from the lands until March 1, 1959, and any person who holds a homestead or desert land entry which was allowed and subsisting on March 1, 1956, or which, based on an application on file on March 1, 1956, was allowed and subsisting on the date of approval of this Act, is granted permission to suspend until March 1, 1959, further operations looking to the cultivation and improvement of the lands: *Provided*, That such entryman shall forfeit no rights and shall not otherwise be excused from full compliance with the applicable public land laws by reason of such absence or of such suspension of cultivation and improvement operations: *And provided further*, That the rights of such entrymen shall not be protected by this section and sections 336b, 336c, and 336d of this title unless they file with the land office having jurisdiction over the area in which the land is located, (a) a notice of their intention to absent themselves from the land or to suspend cultivation and improvement operations and

accompanying such notice information as to location and extent of present cultivation or improvement placed on the entry, and (b) a grant to the United States, for itself and for its lessees, licensees, and permittees, of a right to enter upon and occupy the lands which have not been prepared for cultivation or which have not had improvements placed on them, without recourse, for any purpose authorized by the public land laws, except that such grant need not include a right to construct permanent improvements on the land or to permit a substantial change in its character. (July 30, 1956, ch. 778, § 1, 70 Stat. 715.)

#### REFERENCES IN TEXT

Date of approval of this Act, referred to in the text, means July 30, 1956, the date of enactment of act July 30, 1956.

#### CODIFICATION

Section is also set out as section 237f of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 336c, 336d of this title.

§ 336b. Same; applications on file as of March 1, 1956; filing of notice of intention; date of entry; rights of United States.

Any person who on March 1, 1956, had on file a homestead or desert land application which application shall be allowed on its merits subsequent to enactment of this Act and prior to March 1, 1959, shall not be required to enter upon the lands and commence residence thereon, or cultivate and improve the lands prior to March 1, 1959: *Provided*, That said person files with the land offices having jurisdiction over the area in which the land is located, (a) within sixty days after the date of allowance of his entry, a notice of his intention to delay initiation of his residence, cultivation, or improvements, and (b) at least ninety days prior to initiation of his residence, cultivation, or improvements, a notice of his intention to initiate said activity. For the purposes of the homestead and desert land laws, March 1, 1959, may be treated as the date of the entry, if an actual entry has not been made prior to that date. If an actual entry is made prior to March 1, 1959, the date of such actual entry shall be the date of entry for the purposes of the homestead and desert land laws. Until an actual entry by a person subject to the provisions of this section has been made, or until March 1, 1959, whichever first occurs, the United States, for itself and for its lessees, permittees, and licensees, shall retain the right to enter upon and occupy the lands in each such entry, without recourse, for any purpose authorized by the public land laws: *Provided*, That the United States, its lessees, permittees, and licensees, shall not construct permanent improvements on the lands or otherwise substantially change such lands in their character. (July 30, 1956, ch. 778, § 2, 70 Stat. 716.)

#### REFERENCES IN TEXT

Enactment of this Act, referred to in the text, means July 30, 1956, the date of approval of act July 30, 1956.

#### CODIFICATION

Section is also set out as section 237g of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 338a, 338c, 336d of this title.

§ 336c. Same; property right as personal and inheritable; assignment prohibited.

Notwithstanding any other provision of the desert land laws, the property right prior to issuance of patent to the lands in his desert land entry of an entryman who elects to suspend cultivation and improvement operations in accordance with section 336a of this title and of an entryman whose entry is allowed in accordance with section 336b of this title shall be a personal right, inheritable but not assignable. (July 30, 1956, ch. 778, § 3, 70 Stat. 716.)

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 336a, 336d of this title.

§ 336d. Same; lands to which applicable.

This section and sections 336a to 336c of this title shall apply only to applications filed for, or entries made on, public lands in the continental United States, exclusive of Alaska, pursuant to the Act of May 20, 1862 (12 Stat. 392; 43 U. S. C., ch. 7), as amended and supplemented, and pursuant to Act of March 3, 1877 (19 Stat. 377; 43 U. S. C., ch. 9), as amended and supplemented. Nothing in sections 336a to 336d of this title shall apply to applications filed for, or entries made on, public lands pursuant to the Act of June 17, 1902 (32 Stat. 388; 43 U. S. C., ch. 12), as amended and supplemented. (July 30, 1956, ch. 778, § 4, 70 Stat. 716.)

#### REFERENCES IN TEXT

Act of May 20, 1862, as amended and supplemented, referred to in the text, is classified generally to chapter 7 of this title.

Act of Mar. 3, 1877, as amended and supplemented, referred to in the text, is classified generally to this chapter.

Act of June 17, 1902, as amended and supplemented, referred to in the text, is classified generally to chapter 12 of this title.

#### CODIFICATION

Section is also set out as section 237h of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 336a 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 was classified to section 26 of Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602 (a) (20), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6 (a) (b), 64 Stat. 583, and is covered by section 481 of Title 40, Public Buildings, Property and Works; 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.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 338 of this title.

#### § 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. 1161; 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 was classified to, section 26 of Title 41, Public Contracts, was repealed by act June 30, 1949, ch. 288, title VI, § 602 (a) (20), 63 Stat. 401, eff. July 1, 1949, renumbered Sept. 5, 1950, ch. 849, § 6 (a) (b), 64 Stat. 583, and is covered by section 431 of Title 40, Public Buildings, Property and Works; second and third paragraphs of such section 5 are classified to sections 335 and 337 of this title, respectively.

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

Act Mar. 21, 1918 added the last proviso.

#### TRANSFER OF FUNCTIONS

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions, transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set

out in the Appendix to Title 5, Government Organization and Employees.

References to "receiver" were changed to "register" by acts Oct. 28, 1921, and Mar. 3, 1925, and then to "officer designated by the Secretary of the Interior" and "officer" by 1946 Reorg. Plan No. 3. See notes under former sections 1, 70, and 71 of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 339 of this title.

#### § 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

All functions of all other officers of the Department of the Interior and all functions of all agencies and employees of that Department were, with two exceptions transferred to the Secretary of the Interior, with power vested in him to authorize their performance or the performance of any of his functions by any of those officers, agencies, and employees, by 1950 Reorg. Plan No. 3, §§ 1, 2, eff. May 24, 1950, 15 F. R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

Words "the officer designated by the Secretary of the Interior" and "such officer" were substituted for "the register" by 1946 Reorg. Plan No. 3. See note under former section 1 of this title.

#### Chapter 10.—UNDERGROUND-WATER RECLAMATION GRANTS

Sec.

351 to 355. Repealed.

356. Extension of time for development of water supply.

357 to 360. Repealed.

§§ 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 the Secretary of the Interior to grant permits to explore for underground water.

Sections 352, 353, acts Oct. 22, 1919, ch. 77, §§ 2, 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 designation by the Secretary of lands subject to disposal,