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Title to certain lands, etc.

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TITLE TO CERTAIN LANDS, ETC.

APRIL 20, 1896.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

Mr. BARNEY, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany H. R. 1436.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 1436) entitled "A bill to quiet the title to lands, etc.," beg leave to submit the following report, and recommend that said bill do pass with certain amendments hereinafter suggested:

Prior to March 3, 1891, commutation of a homestead entry could be made at any time after the expiration of six months from the date of settlement. At that time the law was changed, extending the time of settlement to fourteen months. Notwithstanding this change in the law many of the local land offices have permitted commutation to be made at the end of six months from the date of filing or settlement, if made before that time and the filing afterwards, and have given a duplicate certificate of entry, which in most States is an evidence of title; and upon these evidences of title much land has been conveyed to innocent purchasers, land has been mortgaged, and timber sold and taken away. These purchasers have relied upon the title as conveyed by the United States, as it would seem they ought to be protected in doing. A late decision of the Interior Department holds that many of these commutations at the end of six months are invalid, and that such entries are subject to cancellation; and many cases are now pending before that Department where an enforcement of this rule would work great hardship to innocent parties who have relied upon the certificate of some of the officers of the Government.

In order that the act may not seem to excuse such mistakes hereafter, and at the suggestion of the Land Commissioner, the committee recommend that it only apply to previous errors, which is done by inserting the word "heretofore" before the word "been" in the fourth line of the first section. For the purpose, also, of making it absolutely certain that it will have no application to cases where a homestead entry has been abandoned and subsequently taken by innocent parties, the committee also recommend that the following provision be added to the first section of the bill:

Provided, That this act shall not apply to commutation and homestead entries on which final certificates have been issued, and which have heretofore been canceled, when the lands made vacant by such cancellation have been reentered under the homestead act.

The following are the reports of the Land Commissioner and the Secretary of the Interior on the bill:

DEPARTMENT OF THE INTERIOR,
Washington, January 30, 1896.

SIR: I have the honor to hand you herewith a report from the Commissioner of the General Land Office on H. R. 1436, "to quiet title to lands in persons who purchased the same in good faith without notice and for a valuable consideration, and to enable the Government to issue patents on such lands, and that commutations of homestead entries shall take effect from the date of settlement and not from the date of entry."

The report of the Commissioner sets forth in detail the various acts applying to the right of commutation of entries, and he reaches the conclusion that inasmuch as the bill would render the period of commutation and the right thereto uniform, he sees no objection to the passage of the bill if the first section be amended by inserting the word "heretofore," after the word "been," in line 4 of the bill.

I concur with the Commissioner in the recommendation that the bill should pass, because of its remedial character and the fact that it would render the period of commutation uniform, but I do not see the necessity of the amendment suggested. I believe that the bill should apply to entries that may occur after its passage as well as those that have been made heretofore; hence the recommendation that the bill in its present form be passed, although I submit herewith for your consideration the Commissioner's report thereon.

Very respectfully,

HOKE SMITH, *Secretary.*

HON. JOHN F. LACEY,
*Chairman Committee on the Public Lands,
House of Representatives.*

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
Washington, D. C., January 29, 1896.

SIR: I am in receipt, by reference from the Department, January 20, 1896, for report in duplicate and return of papers, of H. R. 1436, "to quiet title to lands in persons who purchased the same in good faith without notice and for a valuable consideration, and to enable the Government to issue patents on such lands, and that commutations of homestead entries shall take effect from date of settlement and not from date of entry," which was referred to the Department by Hon. John F. Lacey, chairman of the Committee on the Public Lands, United States House of Representatives, with request for suggestions from you to assist the Committee on the Public Lands in its consideration.

The bill provides:

"That whenever it shall appear to the Commissioner of the General Land Office that an error has been made by the officers of any local land office in receiving premature commutation proofs under the homestead laws, and that there was no fraud practiced by the entryman in making such proofs, and final payment has been made and a final certificate of entry has been issued to the entryman, and that there were no adverse claimants to the land described in the certificates of entry whose rights originated prior to making such final proofs, such certificates of entry shall be in all things confirmed to the entryman, his heirs, legal representatives, assigns, grantees, mortgagees, and a patent issue thereon.

"SEC. 2. That all commutations of homestead entries shall be allowed after the expiration of fourteen months from date of settlement.

"SEC. 3. That all acts and parts of acts in conflict with any of the provisions of this act are hereby repealed.

"SEC. 4. That this act shall take effect and be in force from and after its passage and approval."

In reply I have the honor to report that on January 14, 1895, I made report on a bill similar to the first section of this, but restricted in its application to lands in Wisconsin restored under the act of June 20, 1890 (26 Stat. L., 169), commonly known as reservoir lands, and to cases in which the land had been sold or encumbered in good faith after issue of final certificate to a bona fide purchaser or incumbrancer for a valuable consideration, on presentation to the land office of satisfactory proof of such sale or incumbrance.

This bill is broader in its terms and proposes to confirm all certificates issued by error of the local officers on premature commutation proof, whether in the hands of the original entryman or of the purchaser; however, as it is of a remedial nature, I think the word "heretofore" should be inserted after "been" in line 4. After the bill is so amended, I see no objection to the first section thereof.

In regard to the second section, it is proper to state that by section 2301, United States Revised Statutes, homestead claimants were allowed to commute on making proof of settlement and cultivation as provided by law granting preemption rights.

By section 21, act of May 2, 1890 (26 Stat. L., 81), settlers in (old) Oklahoma were allowed to pay for the land at \$1.25 per acre and receive a patent after twelve months from the date of locating upon the homestead, on showing compliance with all the laws relating to homestead settlement.

By section 6, act of March 3, 1891 (26 Stat. L., 1095), section 2301, Revised Statutes, was amended so as to allow commutation on proof of settlement, residence, and cultivation for the period of fourteen months after the date of the entry.

By section 2 of the act of October 20, 1893 (28 Stat. L., 3), settlers upon the Absentee Shawnee, Pottawatomie, and Cheyenne and Arapahoe lands were allowed to pay for the land at \$1.50 per acre, and settlers on the public-land strip at \$1.25 per acre, and obtain a patent therefor by showing a compliance with all the laws relating to homestead settlement to date of proof, at the expiration of twelve months from the date of locating upon the homestead.

By section 19, act August 15, 1894 (28 Stat. L., 286), the right of commutation was extended to all bona fide settlers on lands in the Cherokee Outlet after fourteen months from date of settlement upon full payment for the lands at the prices provided in said act.

As by said second section the period of commutation is rendered uniform, I see no objection to the passage of the bill after the first section is amended.

On December 17, 1895, this office forwarded to the Department a draft of a bill to amend section 2301, United States Revised Statutes, so as to allow commutation in fourteen months from date of settlement.

The third and fourth sections of the bill seem to require no comment. There is therefore no objection to the bill if amended as suggested, and the same is herewith returned.

Very respectfully,

E. F. BEST,
Acting Commissioner.

The SECRETARY OF THE INTERIOR.