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### Relief of certain settlers on public lands.

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H.R. Rep. No. 2111, 55th Cong., 3rd Sess. (1899)

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## RELIEF OF CERTAIN SETTLERS ON PUBLIC LANDS.

FEBRUARY 14, 1899.—Referred to the House Calendar and ordered to be printed.

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

### REPORT.

[To accompany H. R. 11938.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 11938) to amend an act entitled "An act for the relief of settlers on public lands," approved May 14, 1880, have had the same under consideration and report back the same with two amendments, and recommend that it do pass as amended.

The bill proposes to extend the benefits accorded to successful contestants under section 2 of the act of May 14, 1880 (21 Stat., 140), "to all persons who have or hereafter shall procure the cancellation at their own expense of any entry or other claim under laws of Congress relating to the public lands, provided that the rights of any such persons have not already been finally adjudicated by the Secretary of the Interior." The law of 1880 granted a preferred right of entry to successful contestants at their own expense against preemption, homestead, or timber culture entry. The Interior Department has held in successive rulings that such preference may be accorded under the act of May 14, 1880, to successful contestants against entry of desert lands, Kansas Indian trust lands, coal lands, scrip locations, swamp-land selections, mineral lands, timber, and stone cash entry. The Federal court of the eighth circuit, and the State courts of California, in construing the statute have restricted its operation to the three classes first mentioned.

If these rulings are sustained by the courts of last resort all of those other classes to which departmental construction has been extended would be excluded and much hardship and practical injustice would be wrought to those persons who, in good faith and relying upon the past decisions of the Department and the circulars of instruction about contested entries, have expended their time and money to protect the Government from fraud. The enactment of the proposed new law would be but a legislative approval of the expressed views and construction in past years by the Department of the Interior, carry into effect the reason and purpose of the original statute, and extend

the preference right already accorded to successful contestants against homestead, preemption, or timber-culture entries by the above act so it shall apply to the several classes of entries and claims under the public-land laws. Your committee recommend that this should be done.

The bill is recommended to be amended as follows:

Amend by inserting the word "procured" after the word "have," in seventh line thereof, so that the clause will read: "are hereby extended to all persons who have procured or shall hereafter procure the cancellation."

Amend by adding thereto the further proviso:

*Provided further,* That should any such person who has initiated a contest die before the final termination of the same, said contest shall not abate by reason thereof, but his heirs who are citizens of the United States may continue the prosecution under such rules and regulations as the Secretary of the Interior may prescribe, and said heirs shall be entitled to the same rights under this act that contestant would have been if his death had not occurred.

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