PAPERS

ACCOMPANYING

REPORT OF THE SECRETARY OF THE INTERIOR.

DEPARTMENT OF THE INTERIOR, GENERAL LAND OFFICE,
October 3, 1865.

SIR: The attention of our statesmen in the earliest age of the republic was directed to the disposal of the public lands, in order to make the same available as a source of national credit, revenue, and strength. The political and commercial agent sent to France by the revolutionary Congress communicated his views in this respect in a despatch as early as December, 1776, to the organ of that Congress—the committee of secret correspondence. He predicted the rush of emigration from Europe upon the establishment of American nationality, the rise in value of settled lands, the demand for new and uncultivated territory, upon which a certain fund, he reported, might then be fixed, tracing "the river Ohio from its junction to its head, thence north to Lake Erie on the south and west of the lake to Fort Detroit, which is in the latitude of Boston, thence a west course to the Mississippi;" and returning to the place of departure, he marked out "these three lines of near one thousand miles each" as including an immense territory in a fine climate, "then scarcely inhabited by any European," and invited attention to that region "as a source amply adequate under proper regulations for defraying the whole expense of the war, and the sums necessary to be given to the Indians in purchase of the native right."

At an early period of our national existence the public lands were the subject of serious political controversies. The charters of certain States extended indefinitely westward, instances having existed of their crossing each other and throwing the same territory within different State limits. Such disturbing causes retarded the organization of an effective system for opening the western territory to settlement and sale. These difficulties, however, were put to rest by several acts of cession, New York taking the lead in 1781, Virginia in 1784 ceding the great northwestern territory, Massachusetts relinquishing her claim in 1785, Connecticut in 1786, South and North Carolina and Georgia having subsequently made cessions which constitute mainly the present States of Tennessee, Mississippi, and Alabama. After the definitive treaty of peace, in 1783, closing the war of the Revolution, and before the adoption of the Constitution of the United States, Congress, by an act of the 20th May, 1785, began the work of laying the foundation of the land system by "an ordinance for ascertaining the mode of disposing of lands in the western territory," in which the principle was established of reserving "the lot number sixteen of every township for the maintenance of public schools within the said township," in recent years duplicated in remote organizations, and before the close of the last century initiated the pre-emption system. These great principles were designed to operate upon the public domain within our then political limits, but in the march of empire, by the expansion of our territory from ocean to ocean, they have been modified and enlarged to meet the wants and interests of the multitudes now spreading over our great national land estate.

By the acquisition of new territories, beginning with the cession by the French republic in 1803 of the ancient province of Louisiana, and ending with the Gadsden cession by treaty with Mexico in 1853, we have assumed obligations under treaties to recognize and confirm inceptive and mature titles which originated under former governments. In the progress of land legislation, the Congress of the United States, under stipulations for the segregation of foreign titles from the public lands, have required by law that the peculiarities of foreign systems, to the extent of such titles, shall be faithfully observed in their survey and confirmation. To earlier legislation have been added numerous enactments providing for cash sales at a low rate per acre, carefully guarding at every step the interest of the pioneer settler, not only by pre-emption, but in conferring homesteads upon the condition of five continuous years of actual residence; thus enriching the settler and adding to the wealth of the nation. But the liberality of Congress has gone further. By munificent acts of legislation there have been conceded, for works of internal improvements and schools, over one hundred and thirty million eight hundred and seventy-five thousand acres; upwards of one hundred and twenty-five million three hundred thousand acres, by estimate, have been granted in aid of the construction of rail and wagon roads; about sixty-eight million, including land scrip, have been awarded for military services, reaching back to the Revolution; and over forty-five million three hundred and nineteen thousand acres have been conceded to States as swamp lands; whilst the agricultural and mechanic college grant in 1862 conceded for such institutions the quantity, including the late insurgent States, of nine million three hundred and thirty thousand acres. The numerous laws regulating the disposal of the public lands, beginning in the early history of this government, and accumulating at every successive congressional session, have now grown into an extended system, not merely of statutory enactments, but of departmental and judicial decisions.

The recent domestic convulsions have necessarily checked during the last four years public land operations.

The reign of peace now happily and, as believed, permanently established, what may we not anticipate in accumulated and accumulating wealth and power from the expansion of the American people over the immense regions constituting the public domain.

In administering the system during the fiscal year ending the 30th of June, 1865, and the quarter which terminated on the 30th ultimo, the following are the results:

For the year ending June 30, 1865, there were sold for cash—

	Acres.	*Cash received.*
For quarter ending September 3, 1865	557,212.53	$748,427 25
Part estimated	72,320.32	95,085 68
	629,532.85	843,512 93
To which add cash paid into the treasury on account of 8,920 entries made under the homestead act May 20, 1862	.....	89,200 00
Commissions on homestead entries	.....	34,250 08
On account of 2,627 entries made under the homestead act in quarter ending September 30, 1865	.....	26,270 00
Commissions on homestead for quarter	.....	10,102 82
Fees for bounty land locations to June 30, 1865	.....	8,410 33
Fees for bounty land locations to September 30, 1865, part estimated	.....	1,913 00
Commissions on agricultural scrip to June 30, 1865	.....	4,431 50

Commissions on agricultural scrip to September 30, 1865	.....	$646 02
Fees on account of pre-emption and donation claims to June 30, 1865	.....	15,412 00
Fees on account of pre-emption and donation claims to September 30, 1865	.....	4,252 00
Bounty land warrants:		
There were located during the year ending June 30, 1865	348,660.00	
For quarter ending September 30, 1865, (September estimated)	65,000.00	
Swamp lands:		
There were approved to the States for the year ending June 30, 1865	571,429.24	
For quarter ending September 30, 1865	322,062.71	
Railroads:		
There were approved to the States to June 30, 1865	607,415.39	
For quarter ending September 30, 1865	45,990.54	
Homestead acts of May 20, 1862, and March 21, 1864:		
There were entered during the year ending June 30, 1865	1,160,532.92	
For quarter ending September 30, 1865	359,697.32	
Agricultural and mechanic college grant of 1862:		
There were selected, under agricultural college grant, for the year ending June 30, 1865	808,358.11	
Located with agricultural scrip to June 30, 1865,	460,130.27	
For quarter ending September 30, 1865	15,520.24	
Total acres disposed of from June 30, 1864, to September 30, 1865	5,394,329.59	
Total cash paid into the treasury		1,038,400 78

Surveyed land:

	Acres.
The aggregate quantity of surveyed land offered and unoffered, and undisposed of on the 30th September, 1865, was	132,285,035
Consisting of offered lands, embracing 53,922 acres of Winnebago trust lands	79,274,577
Unoffered	53,010,458

Having thus shown in outline certain features of land legislation from the beginning of our system, and some of the leading grants by Congress, with details of sales, and other disposals of the public lands during the last fiscal year and the succeeding quarter, it is now proposed to refer to the progress which has been made in preparing our territory for sale, and conveyance in fee-simple, in the extension of the lines of the public surveys.

By the establishment of base lines corresponding with latitudes and of principal meridians with longitudes, the public domain is divided into townships of six miles square, or 23,040 acres, subdivided in their turn into 36 square miles

or sections, containing 640 acres, and these into quarter sections or 160 acres, half-quarter or 80 acres, and quarter-quarter sections or 40 acres.

The initial point of the surveys or the intersection of the base with the principal meridian is established in a region of the country most needed for settlers, and likely to produce a revenue.

The principal base line serves to count the survey of townships north and south thereof, and the principal meridian to count the ranges of townships either east or west.

Thus far the surveying system which has been extended from the State of Ohio to the Pacific ocean, with the exception of interior territories recently organized, has brought into requisition six principal meridians, with corresponding principal bases, and several independent meridians with similar bases as follows:

The first principal meridian divides Ohio from Indiana, and runs north on the 84° 51′ longitude west of Greenwich, governing the surveys in the State of Ohio.

The second principal meridian, starting from the mouth of Little Blue river, in Indiana, governs the surveys in that State, and partly in Illinois.

The third principal meridian begins at the mouth of the Ohio river, and terminates on the northern boundary of Illinois, governing the surveys lying east therefrom, and west to the Illinois river.

The fourth principal meridian commences in the centre of the channel at the mouth of the Illinois river, in latitude 38° 58′ 12″ north, and longitude 90° 29′ 56″ west of Greenwich, and governs the surveys in Illinois situated west of the Illinois river, and of the third principal meridian north of the river and east of the Mississippi. It also extends due north through Wisconsin, and continues through the northeastern part of Minnesota, governing the surveys in Wisconsin and Minnesota lying east of the Mississippi river.

The fifth principal meridian commences at the mouth of the Arkansas river, in the State of Arkansas, and passing due north through Missouri and Iowa, terminates in township 91, north of the base line, which runs due west from the mouth of St. Francis, in Arkansas. This principal meridian governs the surveys in Arkansas, Missouri, Iowa, Minnesota west of the Mississippi river, and Dakota Territory east of the Missouri river.

The sixth principal meridian, the initial point of the intersection with the principal base line being coincident with the fortieth parallel of north latitude, is near the 92° 13′ of longitude west from Greenwich. This principal meridian governs the surveys in Kansas, Nebraska, Colorado, and that part of Dakota Territory lying west of the Missouri river.

Besides the foregoing six principal meridians there have been established independent meridians and bases for the surveys in the following States and Territories:

The Michigan principal meridian commences on the north boundary of Ohio, 22 miles east of the first principal meridian, and runs north, corresponding with longitude 84° 19′ 9″ west of Greenwich, and terminates at Sault St. Marie, governing the surveys in the State of Michigan.

The Tallahassee principal meridian intersects the principal base at the city of Tallahassee, and governs the surveys in Florida.

The St. Stephen's meridian, in Alabama, intersects the principal base line on the 31° north latitude, and Huntsville basis meridian starts from the principal base or the northern boundary of the State, and governs the surveys in the State of Alabama, the former governing also the surveys in Mississippi lying east of Pearl river and south of township 10 north.

The Choctaw meridian and Washington meridian govern the surveys in Mississippi; the base line of the latter is the 31° north latitude, and that of the former sixty miles north of it.

In Louisiana there are two principal meridians, with a common basis parallel, passing near the mouth of the Red river, from which surveys have been made; one governing the surveys east of the Mississippi river, and the other west.

The initial point of the intersection of the base line with the principal meridian in New Mexico is ten miles below the mouth of the Puerco river, being a hill of two hundred feet high, on the Rio Grande del Norte; these principal lines govern the surveys in New Mexico.

The surveys in California are controlled by three different meridians and as many base lines. The San Bernardino meridian intersects its base line in latitude six miles north of Los Angeles, the initial point being on the high peak of the San Bernardino mountain. This meridian is on the 116° 55′ longitude west from Greenwich, and controls the survey in the southern part of California.

The Mount Diablo meridian intersects its base line in latitude six miles north of that of the city of San Francisco, distant from the ocean 38 miles, the intersection being on the highest peak of Mount Diablo, about 3,600 feet high. This meridian corresponds with the 123° 53′ of longitude west from Greenwich, and governs the surveys north and south of the initial point in California, and also in Nevada.

The Humboldt meridian intersects its base line in latitude of about 40° 24′ north, on the peak of Mount Pierce, 5,000 feet above the level of the Pacific ocean—this initial point being commemorated by an iron monument. These principal lines govern the surveys in the northwestern portion of California situated west of the coast range of mountains.

The Willamette meridian and base line govern the surveys in Oregon and Washington Territory, the initial monument being at the point of the intersection of 45° 31′ 13″ of north latitude with the 122° 30′ 26″ of longitude west from Greenwich.

The Salt Lake meridian starts from the corner of the Temple block in the Salt Lake City, where it is intersected by the principal base line, the point of intersection being commemorated by a monument; these standard lines, running north and south, east and west, govern the surveys in Utah.

The surveying machinery has accomplished its work in Ohio, Indiana, Illinois, Michigan, Missouri, Arkansas, Mississippi, and Alabama. In the State of Louisiana the survey of the New Orleans township and some subdivisions remain to be executed. In Florida the surveys have been extended to Lake Okechobee, leaving unsurveyed the portion of the peninsula south of that lake, which is a swampy and overflowed region.

Should it be deemed proper to restore the surveying districts of Louisiana and Florida for the time-being, it would be necessary to make appropriations for salary of both officers of surveyor general, and existing appropriations, to a limited amount, might be set apart and applied to meet any surveying exigency in either of the States; or, in case such salary appropriation should not at this time be made, the power might be exercised which is delegated to the Commissioner of the General Land Office by the act of January 22, 1853, of acting ex-officio surveyor general, where a district is discontinued.

It is now proposed to present a view of the progress which has been made in other States, beginning with the surveying districts of

WISCONSIN AND IOWA.

The surveying operations in the State of Wisconsin have been advanced during the fiscal year ending June 30, 1865, by the application for the completion of surveys in Wisconsin of four-fifths of the fifty thousand dollar appropriation, per act of July 2, 1864, for surveys of public lands.

Contracts to the full extent of the means provided have been made, and returns of the surveys have been received, amounting to 2,608 lineal miles, embracing 721,826 acres. In the lands thus surveyed are several hundred lakes, from a few acres in size to several square miles in extent. Yellow and white pine abounds in this region, which is interspersed with marshes, swamps, and shallow lakes, the latter filled with wild rice. The country, however, furnishes great facilities for floating timber, through numerous natural channels, to the Wisconsin river.

The unfinished field-work, it is reported, will be completed before the close of the present surveying season, and no further means will be required, the existing funds being sufficient for closing the surveys in Wisconsin.

For the completion of the office-work for the surveys already made and those yet to be executed, and in order to have the archives in readiness to be transferred to the authorities of Iowa and Wisconsin, respectively, under the provisions of the acts of Congress approved June 12, 1840, and January 22, 1853, an estimate is submitted for the compensation of the surveyor general and two clerks in his office, for the fiscal year ending June 30, 1867, when it is expected the office will be closed and discontinued, the field-work in Iowa having been completed.

MINNESOTA.

The progress of surveys in Minnesota during the fiscal year ending June 30, 1865, has been co-extensive with the sum of $14,000 appropriated for the purpose. The field operations, as far as returned, are equal to 1,270 lineal miles, comprising 419,208 acres, including 172,208 acres of the Sioux or Dakota Indian reservations on the south side of the Minnesota river, the survey having been ordered by the second section of the act approved March 3, 1863. These lands are to be appraised and sold for the benefit of the Indians. As allegations have been made against the work of surveyors within the Sioux reservations, and to the effect that the character of the surveys was not in conformity with the surveying laws and instructions governing the survey of the public lands, an examination in the field was ordered by the department on the 25th of August last to elicit the true condition of the surveys which, under the decision of the department, are to be paid for out of the proceeds of the sales of the Indian lands.

Attention has been attracted to the region on the headwaters of Cloquet river, one of the tributaries of St. Louis river, about thirty-five miles north of Fond du Lac, as possessing valuable minerals and where coal has been discovered. The surveying department recommends in that region of the State that where the standard lines are in progress of extension, subdivisional work may also be contracted for during the next fiscal year. To meet the expenses of the proposed work, and also of surveys on the Lower Embarros and East Savannah rivers, affluents of the St. Louis river, on the Mississippi river, in the vicinity of Sandy lake, and on the upper waters of the Minnesota river, an estimate is submitted.

By the first article of the treaty of May 7, 1864, with the Chippewas of the Mississippi, there are ceded, with exceptions, certain reservations made by treaty of the 22d of February, 1855. Accordingly, pursuant to the treaty of 1864, and of the department's directions of March 9, 1865, instructions have been given to the surveyor general for the subdivision of lands embraced within the former Indian reservations of Gull lake and Mille lac, in Minnesota, in order to enable the grantees to secure by legal subdivisions their respective grants. Contracts have been entered into to the extent of means placed at the surveyor general's disposal under the appropriation of July 2, 1864, and the greater part of the work has been executed, the residue to be completed at an early period.

KANSAS AND NEBRASKA.

Under the appropriation of $50,000, by act of Congress of July 2, 1864, for the survey of the public lands in Kansas and Nebraska, contracts were made to the extent of the means provided. Only a small part, however, of the work was executed during the last fiscal year on account of Indian hostilities. In Kansas the field-work was equal to 883 lineal miles, embracing 183,661 acres. In Nebraska, 3,445 lineal miles, including 1,262,784 acres.

The remaining eight contracts not yet completed, which are an aggregate liability of about $40,000, are in progress, and will be finished before winter.

It is reported that emigration in that surveying district exceeds that of any year since 1857, and that actual settlements are being rapidly made in several localities. The routes recently opened for the overland mail and express company along the Smoky Hill river, together with the Pacific railroad—great thoroughfares of trade—are stimulating emigration, and it is expected will cover, to a very considerable extent, the public lands already surveyed.

With the view to meet the anticipated demand for the public lands by settlers under the pre-emption and homestead laws, as well as the requirements of the Pacific railroad, the surveyor general submits enlarged estimates for the surveying service in the following localities: On Arkansas river, Smoky Hill fork, Saline and Soloman forks of Kansas river, in Kansas, and on Republican fork of the Kansas river, Platte and Wood rivers, and Loup fork of the Platte river, in Nebraska; the proposed surveys to consist of standard township and subdivisional lines.

DAKOTA AND MONTANA TERRITORIES.

In Dakota the surveys have been established to the extent of the means appropriated for the fiscal year ending June 30, 1865. The field-work is equal to 1,482 miles of lineal measure, comprising 313,251 acres, situated in the valley of Big Sioux river, and eastward therefrom to the western boundary of the State of Minnesota, between 43° 30′ and 44° of north latitude.

The character of the lands surveyed and to be surveyed in the eastern portion of the Territory is represented to be adapted to agricultural pursuits, particularly that of stock-raising. The advantages for the growth of wool have already been realized there—the weather being mild, with an absence of rain during the winter months.

The contract entered into between the surveyor general and deputy for the survey of that portion of the Sioux Indian reservation on the south side of the Minnesota river which lies in Dakota Territory, southwest of Big Stone lake, it is expected, will be completed during the present season.

The survey of the reservation authorized by the second section of the act of Congress approved March 3, 1863, is to be at the expense of the Indians, payable to the deputy surveyor out of the proceeds of sales of the lands surveyed.

No contracts have been made for the extension of ordinary public surveys in Dakota during the fiscal year ending June 30, 1866, on account of the failure of the surveying appropriations at the last session of Congress.

Under an appropriation of ten thousand dollars, by act of 2d July, 1864, initial surveys have been ordered in the Territory of Montana.

Instructions have been issued to the surveyor general at Dakota, whose department embraces Montana, to establish the initial point for the surveys in the latter distant Territory at "Beaver Head Rock," a remarkable landmark in the Great Horseshoe Basin of the Rocky mountains, drained by the Jefferson, Madison, and Gallatin forks of the Missouri river, situated between the Bannock and Virginia Cities.

From this point of the intersection of the principal base with the principal meridian governing the surveys in Montana Territory, standard parallel, township and section lines will be extended to embrace settlements and lands adapted to agricultural purposes.

COLORADO, UTAH, AND IDAHO TERRITORIES.

Surveys in Colorado during the fiscal year ending June 30, 1865, have been advanced to the extent of the appropriation of $20,000. Returns of field operations show surveys executed equal to 1,746 lineal miles, embracing 605,281 acres. The residue of the field service, it is expected, will be completed before the ensuing winter.

The estimates submitted for surveys during the fiscal year ending June 30, 1867, are designed for the extension of surveys to such lands as are already occupied, or are offering inducements for settlement as soon as surveyed. The proposed region of operations is situated east and west of the Rocky mountains, principally on the south fork of the Platte river, and its numerous tributaries lying east of the existing surveys, and on the upper waters of Rio Grande del Norte, south fork of Platte, in the South Park, and in the Middle Park, near the sources of sundry tributaries of Grand river, these localities embracing rich agricultural lands, though requiring irrigation. The surveys proposed on the west side of the Rocky mountains are based upon the fact that the Overland Stage Company are building a wagon road from Provo, in Utah, to Denver City, Colorado, shortening the overland route by one hundred miles, the wagon road passing through the finest agricultural region of Colorado, destined to be settled so soon as the road is opened.

In Utah, a part of the surveying district of Colorado, no surveys of the public lands have been carried on during the last year, and none since the year 1857. In that year the office of the surveyor general was closed in consequence of Mormon difficulties.

Under the provisions of the act of Congress approved May 5, 1864, entitled "An act to vacate and sell the present Indian reservations in Utah Territory," contract has been entered into for the survey and subdivision into forty-acre tracts of the following reservations, viz: the Spanish Fork, San Pete, Corn Creek, and Deep Creek, yet no returns of surveys have been received from the surveyor general.

In Idaho the surveying machinery has not yet been initiated, owing to the great distance from the office of the surveyor general at Denver, and the want of necessary information as to the precise localities requiring surveys within the Territory. No estimate is submitted for field-work, there being sufficient means already appropriated for that purpose, and which can be used at the proper time for the commencement of the public surveys.

NEW MEXICO AND ARIZONA.

Continued Indian hostilities in New Mexico and Arizona have prevented surveys of the public lands therein during the fiscal year ending June 30, 1865. In order to determine what parts of Arizona require earliest surveying operations, the surveyor general was authorized personally to examine this distant portion of his surveying district. Accordingly, on the 7th day of January last he left Santa Fé, and passing through Las Cruces, Fort Cummings, Fort West, on the upper Gila river; Fort Bowie, on Santo Domingo river; Fort Goodwin, on Gila river, to Tubac, on Santa Cruz river; thence down the valley, on his way to Prescott, crossing Rio Gila at the distance of twenty miles above the confluence of Rio Salado with Rio Gila; thence to Hasiampa river, in places dried up

so that the bed of the river was passable in travelling; at a distance of fifty four miles from the crossing of the Salado river, he reached the mining town of Wickenburg, containing from two to three hundred persons, situated on the right bank of the river; thence through Weaver to Prescott, the capital of the Territory, one mile above Fort Whipple and the upper waters of Granite creek, consisting of about sixty houses. On returning from Arizona, the surveyor general struck the valley of the Rio Colorado Chiquito, in the direction of the San Francisco mountains; thence up the valley of Rio Puerco of the west, and Fort Wingate, on the Rio San José, to the Rio Grande, reaching Santa Fé May 19, 1865, the journey occupying nearly five months and a half. The mineral resources of Arizona are reported to be very extensive, requiring only labor, capital, and machinery to develop the mines.

The valleys of the Gila, Salado, San Francisco, and Colorado rivers, with their tributary streams, would produce, under proper culture, sufficient food for more than two millions of people.

The surveyor general, in submitting estimates for Arizona for the fiscal year ending June 30, 1867, suggests that the initial point of surveys should be the intersection of the principal base with the principal meridian at a conical hill 150 feet in height on the south side of the Gila, opposite its confluence with the Salado river. Upon the pinnacle of this eminence the Mexican boundary commission in 1851 established a corner to mark the mouth of Salt river, its geographical position being in latitude 33° 22′ 57″, longitude 112° 15′ 46″. The selection of the initial point being central, the settled localities of the Territory are susceptible of being reached by standard or correction parallels, which may be established north and south of the principal base, and east and west of the principal meridian, governing the surveys in Arizona.

The surveying operations, therefore, are proposed in Arizona during the next fiscal year, payable out of the appropriations already made, which, without additional estimates, are deemed adequate for the purpose.

The surveyor general renews the recommendation, and urges the necessity for departure from the rectangular system of surveys in mountainous districts, and especially along streams with narrow valleys which have been settled and cultivated for many years, particularly where the tracts have conventional limits fronting on streams and extending back to the mountains. To enable settlers in this situation to acquire titles, such departure from the rectangular system is suggested in order that authority of law to that end may be delegated by Congress.

In the surveyor general's tour of examination he was occupied while at Las Cruces in looking to the extent and validity of claims to land under grants from the republic of Mexico in the Mesilla valley, below Fort Craig, on the right bank of Rio Grande.

It is represented that numerous grants were made by Ramon Ortiz, commissioner of the state of Chihuahua, and by Guadalupe Miranda, commissioner general, for the transportation of Mexican families to the national territory subsequent to the treaty of 1848 at Guadalupe Hidalgo, and prior to that of 1853 at the city of Mexico.

Under the treaty of 1848, the boundary between the two republics, as determined by the joint commissioners, Bartlett and Conde, April 20, 1851, was the point of intersection at 32° 22′ of north latitude with the Rio Grande, about thirty-four miles north of the present boundary, as fixed in latitude 31° 47′ north, under the treaty of 1853.

The office of the surveyor general is destitute of data in regard to Mexican titles granted between the dates of the treaties of 1848 and 1853 in the Mesilla region; and even if he possessed the same, there is no authority delegated by existing laws to that officer for giving them such a status as would enable him, in extending the lines of the public surveys in that valley, to segregate such unconfirmed claims from the public domain.

SPANISH AND MEXICAN TITLES IN NEW MEXICO AND ARIZONA.

By the 8th section of the act of Congress approved July 22, 1854, authority is given to the surveyor general, under direction of the Secretary of the Interior, "to ascertain the origin, nature, character and extent of all claims to lands under the laws, usages and customs of Spain and Mexico," and for this purpose he has the power to "issue notices, summon witnesses, administer oaths," and make report on all such claims before the cession, by the treaty of 1848, showing his judgment of the validity or invalidity of the titles brought before him under this law; Congress retaining the power to award final confirmation.

Under this act the surveyor general's function for receiving and reporting on Mexican titles extends only to so much of territory as was ceded to the United States by the treaty of 1848, and not embracing the tract included within what is known as the Gadsden treaty of 1853.

It is a matter of grave importance, both to New Mexico and Arizona, as well as to the general government, that efficient steps should be ordered by law for the summary and early adjustment of Spanish and Mexican titles which may be valid under our treaties of 1848 and 1853 with that republic.

If it should be deemed the preferable course for the surveyor general to act upon these grants, let his jurisdiction be co-extensive with the cession under both treaties; let authority be given to him for confirmation to a limited extent, making such confirmation final when approved either intact or according to departmental judgment; let the statute limit the period within which all foreign titles shall be filed in surveyor general's office, barring in law and equity every claim not filed within a period to be fixed in the law.

The enactment should authorize claims destitute of merit in the judgment of the Executive to be restored to the mass of the public lands, and where claims exceed the limitation that the department may have the power to confirm. Such claims should be reported for the final determination of Congress.

If, however, it should be deemed the better course, as seems to be the judgment of well-informed persons, to commit the adjudications of these foreign titles to the courts, we have the precedents established for this mode in legislation in regard to claims in Missouri, Arkansas, Louisiana, Florida, Mississippi, Alabama, and California.

Should the judiciary be charged with this duty, let the law giving authority for the purpose limit the time for filing and for final prosecution, stipulating in all cases that the title with its exact boundaries and area shall be set forth in the petition to the court, and that the judicial decree shall not only determine the validity of title, but also questions as to location and limits.

In respect to those cases heretofore confirmed, a period should be fixed by law within which confirmees shall have surveys made at their own expense, but, under the direction of the United States surveyor general, subject to the controlling power of the department; and where such claims are of loose and undefined extent, a limitation as to quantity should be established by law.

In determining rights of individuals under past confirmation of Spanish and Mexican grants the General Land Office has decided that the United States, as the successor of Spain and Mexico, have the right of retention and exclusion from claims of this class of such sites therein as may be indispensable for forts or other public uses, and this right will be insisted upon and enforced unless Congress shall relinquish it or otherwise order.

PRE-EMPTIONS IN NEW MEXICO, ARIZONA, AND COLORADO.

By the seventh section of the act of Congress approved 22d July, 1854, the pre-emption privilege was extended to lands, whether settled upon before or

after survey, within the region of country comprehended by the present Territories of New Mexico and Arizona. As Arizona has not yet been organized into a "land district," the authority to receive pre-emption declarations in virtue of the acts of 22d July, 1854, and of 2d July, 1864, is vested in the surveyor general at Santa Fé, and instructions on 9th June last were despatched to that office accordingly to receive these declarations when not embracing the precious metals, or lands reserved for military or other public uses.

In virtue of the requirements of the seventh section of the act of 30th May, 1862, pre-emption declarations, where settlements are made before survey, must be filed within three months from the date of the preparation and deposit in surveyor general's office of the approved plat of the township embracing the pre-emption; but where the settlement was made after survey, within three months from date of settlement. In the act of Congress approved June 2, 1862, establishing a land office in Colorado, and for other purposes, it is declared "that when unsurveyed lands are claimed by pre-emption, notice of the specific tracts claimed shall be filed within six months after the survey has been made in the field, and on failure to file such notice or to pay for the tract claimed within twelve months from the filing of such notice, the parties claiming such lands shall forfeit all right thereto."

These terms are much more restricted and are variant from the general pre-emption system as applicable to the new land States and Territories, and there being no just grounds for any discrimination as against Colorado, the recommendation is renewed for the repeal of such restriction, and that at the same time, by further legislation, the provisions of the pre-emption acts of 1841 and 1843, and of the seventh section of the act of 30th May, 1862, to reduce the expenses of survey and sale of the public lands, be declared applicable to that Territory.

CALIFORNIA AND NEVADA.

Surveys in California during the fiscal year ending June 30, 1865, have been prosecuted under the appropriation of July 2, 1864; and at the expense of applicants for the surveys under the tenth section of the act of Congress approved May 30, 1862, over thirty contracts were entered into by the surveyor general. The returns of the field-work amount to 780 lineal miles, embracing 246,268 acres of public lands, and 38,700 acres within the following special grants made by Congress to the State of California by act of June 30, 1864, to wit: the Yo-semite valley in the Granite Peak of the Sierra Nevada mountains, at the headwaters of the Merced river, containing per actual survey $36{,}111\frac{14}{100}$ acres, and the Mariposa Big Tree grove, covering $2{,}589\frac{76}{100}$ acres. The field operations in California are advanced mainly in the direction of the Pacific railroad and in the Honey Lake valley. Contracts have been made for the survey of townships adjoining the headwaters of the Truckee river and the eastern boundary of the State. That boundary has not been surveyed and marked pursuant to the act of Congress approved May 26, 1860, for the reasons assigned in annual report of November 30, 1861, pages 35 and 36, to which reference is made for information on the subject of the extent of the work accomplished under the appropriation of $55,000 per act of June 25, 1860.

By the act of Congress of March 2, 1861, organizing the Territory of Nevada, provision was made for taking a strip from the eastern part of California and adding the same to Nevada, provided California should assent. The legislature of that State, however, has refused to accede to the proposed modification, assigning as the reason that the State constitution is inhibitory in that respect.

No further steps have been ordered by the department in the survey of the eastern boundary of California under the appropriation of $55,000 hereinbefore mentioned, for the reason the funds were absorbed by the commissioner appointed by the President under the act of Congress approved May 26, 1860, and who acted not under the direction of the General Land Office, but in 1860, and until August, 1861, was under the superintendence of the department proper. On the 15th day of May, 1861, the appointment of commissioner Maury terminated. The astronomer who continued field astronomical work at Lake Bigler was in his turn relieved from further duties and reported to the Secretary of the Interior, under date of August 30, 1861, that the field astronomical duty was completed, and it only remained, after the computations were made, to run the line, which any surveyor could accomplish. Finally, on the 11th September, 1861, the astronomer, J. C. Ives, pursuant to instructions from the department proper, turned over to the United States surveyor general's office the field-notes, maps, reports, and computations of the astronomical observations which had been taken.

The prosecution of the survey of the California eastern boundary was thus interrupted after determining and establishing the intersection of the 35° of north latitude with the Colorado river and the 39th of north latitude with the 120° of longitude west from Greenwich, and nothing has since been done in the matter. In the mean time a joint commission on the part of the State of California under legislative authority in 1863, and on the part of the Territory of Nevada, proceeded to the survey and demarkation of the boundary from the initial point in Lake Bigler to the northern limits of the State of California by actual admeasurement and by daily observations for latitude, terminating the line a few miles to the north of Crane lake, on the forty-second parallel of north latitude, and perpetuating the intersection of that parallel with the 120° of longitude west from Greenwich by a stone monument. From the report of the Nevada commissioner, made to the legislature in 1863, it further appears that the commission continued the survey of the boundary southeasterly from Bigler lake for 102 miles, reaching the 38° north latitude within one mile. This part of the line is not regarded as correct, the same not having been prolonged to the monument established on the Colorado river, and will not be held correct until the error in the intersection with the initial point shall have been corrected back to Lake Bigler.

Attention is thus drawn to this subject, it being important that the line should be definitely established under legislative sanction, in order that the public surveys, both on the California and Nevada side, may be permanently closed on a duly acknowledged boundary. Nevada in 1862 was part of the California surveying district, but in 1864 it was attached to Colorado; subsequently, however, by act of 2d March, 1865, it was reannexed to, and with California now forms one surveying district. The appropriation, by act of 2d July, 1864, for Nevada surveys was not made available whilst the surveyor general at Denver, Colorado, had jurisdiction, because sufficient time for the purpose did not elapse between the date of said appropriation and the period when the transfer to California was ordered by the act of 1865.

Upon the restoration, however, of Nevada to the surveying district of California, in March last, instructions were given to the proper officer to contract for the surveys of the public lands to the extent of the then existing means, about $20,000, giving preference to the lands along the Pacific railroad route. As the Indian reservation at Pyramid lake, in Nevada, extended within the ten-mile range of the Central Pacific railroad along the great bend of the Truckee river, the late Secretary of the Interior, on 13th May, 1865, directed that the said reservation to the extent of its intrusion upon the railroad limits should be reduced, and the portion falling within those limits should be surveyed as other public lands, the alternate section to be allotted to the grant, and the residuary ones to be open to settlement, and the surveyor general was accordingly so instructed by this office. Subsequently the department's order for laying open

the residuary sections to settlement was modified by the Secretary, and hence, on the 19th August last, the surveyor general was called on for report as to the action which had been taken by him under the department's original orders of 13th May last; and when his report shall have been made, the same will be laid before the Secretary of the Interior for definite instructions as to what disposal shall be made of the aforesaid residuary sections.

OREGON.

During the fiscal year ending June 30, 1865, surveys in Oregon have progressed to the extent of available means. The field-work on the Columbia river, in the valleys of John Day's, Umatilla, Grand Ronde, and Powder river was equal to 867 lineal miles of standard, township, and section lines, and embrace 199,028 acres.

It is reported that a large number of immigrants seeking homes are locating in the eastern portion of Oregon, in the valley situated between the Blue mountains and the Snake river, over which standard lines have been established, as preparatory to township and subdivisional surveys.

The surveys during the fiscal year ending June 30, 1867, are proposed in the Coquille and Umpqua river valleys, along Oregon Central military road, John Day's and Umatilla river valleys; and to cover the expense of such field operations a corresponding estimate has been presented by the surveyor general. The annual report of that officer furnishes interesting details of the varied resources of Oregon; treats particularly of the productiveness of the soil, valuable timber, fruit trees, fisheries, water-power, mines and minerals. The gold and silver export products of Oregon in one year are reported as $15,000,000, whilst the export of the products of agriculture, of the forest, fisheries, wool, and other articles, reach $10,000,000, making a grand total of Oregon exports of $25,000,000.

WASHINGTON TERRITORY.

In this distant Territory the surveys have been advanced, by using unexpended balances of former appropriations, to the extent of 605 lineal miles of standard parallel, township and sections, embracing 210,471 acres, in the following localities: at the confluence of Yakama with Columbia river, and on the upper waters of the Touchet river, a tributary of Walla-Walla river, being east of the Cascade and west of the Blue mountains; on the Puyallup river, in the vicinity of the Commencement bay; on Cedar river, affluent of the Dwamish or Washington lake, and bordering the lake of Sammamish, lying between the Admiralty inlet and west of the Cascade mountains. In order to extend the public surveys down the Straits of Fuca, and to embrace Clallam bay and the reported coal-fields in that region, the lines of the public surveys were extended by traverse along the straits by setting posts for corners of fractional townships. In thus determining the relative positions of the townships situated between the Olympic range of the mountains, presenting insuperable obstacles to the extension of the public lines in place, the fractional township thirty-two north, range twelve west, of the Willamette meridian, was reached, and as it included the town of Gaston, on the Clallam river, it has been subdivided.

The proposed surveys, as estimated for by surveyor general, for the fiscal year ending June 30, 1867, are indicated upon the accompanying map, and are situated in localities east of the Cascade mountains, the extension of standard lines to be in the direction of the Snake and Pelouse rivers, to the western limits of the Territory of Idaho and in proximity to Fort Colville; the land

being of the best quality, and where settlements have existed for upwards of thirty years.

Surveys are also proposed west of the mountains in the numerous valleys of the rivers emptying into the Admiralty inlet, and in the vicinity of Shoalwater bay, now desired for actual settlements, in view of expected immigration in that direction.

BOUNDARY LINES BETWEEN LAND STATES AND TERRITORIES.

The common boundary between Oregon and Washington Territory, on the forty-sixth parallel, starting from the middle channel of the Columbia river, thence due east to the main channel of Snake river, for the survey of which the sum of $4,500 was appropriated June 25, 1860, was reported 30th August, 1864, by the astronomer and surveyor as completed, but returns of the work have not yet been received.

The survey of the boundary line between Oregon and California, on the forty-second parallel of north latitude, from the northeastern corner of the State of California, or the intersection of the parallel with the one hundred and twentieth degree of longitude west of Greenwich, to the Pacific ocean, has been required for several years, to enable the surveyors general of those States properly to close and connect the lines of public surveys on the common boundary. To effect an early survey of the northern boundary of California an estimate of $15,000 has been submitted.

The establishment of the northern limits of New Mexico is required by the progress of public surveys adjacent to the thirty-seventh parallel of north latitude both in New Mexico and Colorado, as also in properly determining the lines of grants under treaty which have localities in both Territories. For the want of a recognized boundary between these Territories, applicants for the survey of confirmed grants at their own expense are at a loss whether to seek the instrumentality of the surveyor general at Santa Fé or Denver; and hence an estimate of $15,000 is submitted to run the boundary in question.

In this connexion the propriety is suggested of finally adjusting the limits between Georgia and Florida, so that the survey of the public lands in the latter may be closed on properly defined boundary. The true line, under the provisions of the act of Congress, approved May 4, 1826, for the settlement of the boundary by commissioners on the part of the United States and the State of Georgia, has not been established, owing to the disagreement as to the locality of the head or source of the St. Mary's river. In order to quiet adjacent unsettled private rights, further legislation is required with the view to the ascertainment of the true locus of the source of the St. Mary's river, according to the intent and meaning of the treaty of 1795 with Spain.

LANDS IN THE STOCKBRIDGE RESERVE, WISCONSIN.

The act of Congress approved March 3, 1865, attaches the lands belonging to the United States in the late Stockbridge reservation in Wisconsin to the Menasha land district. The right of pre-emption is there secured to actual settlers who have improvements thereon to the value of not less than fifty dollars, provided they make the necessary proof and payment within one year; the land not sold within that time to be brought into market. This act reduces the price to three dollars per acre for lots fronting on Lake Winnebago; five dollars per acre for the two tiers of lots fronting on the military road, one tier of lots on each side thereof; and two dollars and fifty cents per acre for the residue, whether entered under the pre-emption laws or purchased at public sale. Instructions, therefore, have been despatched to the land officers at

Menasha with a view of giving proper effect to this act. and ordering public notice to be given settlers of the provisions of the statute.

INDIAN RESERVATIONS "IN PLACE"—SALES OF INDIAN TRUST LANDS—FLOATS—PUEBLOS.

Since September 30, 1864, there have been issued seven hundred and five patents for Indian land claims connected with the Chippewas, Delawares, Kansas trust, Kaskaskias, Ottawas of Blanchard's fork and Roche de Bœuf, Ponca Half-breed Scrip, Sac and Fox of the Mississippi, Shawnee, Stockbridge, Winnebago trust land sales, Wyandot floats, and pueblos, in New Mexico, covering in the aggregate over two million four hundred and seventy thousand acres.

SIOUX RESERVATION IN MINNESOTA.

Application was made by certain settlers upon the Sioux reservation in Minnesota to be allowed to enter the lands settled upon by them within said reservation, under the homestead law.

This office held that under the second section of the act of Congress approved March 3, 1863, parties settling on those lands are required to pay the appraised value thereof, including the value of the improvements, and therefore those lands could neither be entered under the homestead nor under the pre-emption laws, at the ordinary minimum of $1 25 per acre.

The improvements referred to in the law of 1863 are those made by the United States or by the Indians.

The Secretary of the Interior having approved the Commissioner's views, instructions have been issued accordingly to the register and receiver.

PRE-EMPTIONS IN THE SIOUX RESERVE.

The resolution of the United States Senate of the 27th June, 1860, looked to the concession of the pre-emption privilege in persons who in good faith had settled upon the Sioux Indian reservation on the south side of the Minnesota river, in Minnesota, "provided the assent of the Indians shall first be obtained in such manner as the Secretary of the Interior shall prescribe."

As certain pre-emptions had been asserted to tracts within the reserve, an official call was made in May last on the Commissioner of Indian Affairs for information as to whether such assent had been given, followed by reply that the subject had been submitted to the Indians, who had "peremptorily and unqualifiedly refused to give their consent;", and hence such claims stand excluded from the reservation in question.

LEGISLATION CONCEDING SWAMP LANDS.

By the acts of Congress of March 2, 1849; September 28, 1850; March 2, 1855; March 3, 1857, Congress have not only conceded swamp and overflowed lands "in place," but when lands of this class had been sold as arable, or located with bounty warrants, the statute authorized the department in the one case to pay over in money to the State authorities the amount of such sales, and in the other to give to the State an equivalent in public lands.

The indemnity acts of 1855 and 1857 are, however, held by this office to be wholly retrospective, and in extending by act of March 12, 1860, the swamp concession to Oregon and Minnesota the indemnity rule is set aside and forbidden, while in regard to swamp land thereafter to be surveyed, selections under the grant are required to be made within two years from the adjournment of the next session of the legislature, after official notice by the department to the governor of the State that the surveys have been completed and confirmed.

Under these laws there have been selected to September 30, 1865, as swamp, by the States of Ohio, Indiana, Illinois, Missouri, Alabama, Mississippi, Louisiana, Michigan, Arkansas, Florida, Wisconsin, Iowa, and Minnesota, a grand aggregate of $58{,}650{,}242\frac{71}{100}$ acres. Of this there have been actually approved to the grantees $45{,}422{,}327\frac{48}{100}$ acres, as shown by accompanying tabular exhibits.

Besides these swamp concessions "in place," there has been refunded in money from the United States treasury, as indemnity—that is, on account of the cash the United States received for tracts claimed as swamp—the sum of $513,826 84, and special certificates have been given to allow land indemnity on account of locations, also claimed as swamp, equal to $366{,}674\frac{11}{100}$ acres.

These enormous concessions, with large indemnity cash payments from the public treasury, and new land indemnity grants, suggest the necessity for legislative revision, and enactments prescribing the mode of proceedings to be before the district officers, and after notice in establishing swamp claims, and in taking testimony; also in better defining what shall be treated as swamp—whether such selections shall be restricted to lands bordering on great internal water communications, where the region is so overflowed as to be unfit for settlement, or whether the grant shall be extended or shall exclude marshy or wet low lands and lakes, or ponds liable to be dried up by natural causes. It is important, too, that the statute should so limit the period within which swamp selections shall be made of lands hereafter to be surveyed as will take date in some fixed period from the time of reception at the district land office of the approved township plats; and further, that it should declare whether it is the duty of the department, before vesting title, to require a showing that condition of the grant—namely, constructing of leeves and drains—has been complied with.

The embarrassments arising from the unexpected magnitude of operations under the grant, the conflicts growing out of other interests, such as railroad grants and with individual titles, and the investigation of alleged frauds in selections, have, of necessity, rendered the adjustment of this business laborious and difficult.

There have been approved to the States claiming swamp during the past year 893,491.95 acres, and patents for the larger portions thereof have been issued, whilst special patents for indemnity have been granted for 71,965.83 acres. Indemnity also in cash, under the act of 1855, has been awarded the past year to the amount of $170,941 42, and in land for 15,874.16 acres.

The State of Illinois has now on file swamp claims to land indemnity covering many thousand acres, in the counties of Bond, Clark, Clinton, Cumberland, Crawford, Coles, De Witt, DeKalb, Edgar, Edwards, Franklin, Grundy, Hamilton, Iroquois, Johnson, Jackson, Jasper, Kankakee, Livingston, Logan, McLean, McHenry, Macon, Macoupin, Montgomery, Massac, Ogle, Perry, Pope, Randolph, Rock Island, Shelby, Sangamon, Vermillion, Williamson, Wayne, Winnebago, Whiteside, Woodford, Wabash, White, and Mason.

The clause for indemnifying the State is upon this ground—that the lands in said counties which were swamp, and within that grant, have been selected as arable tracts for locations with military bounty land warrants and scrip. There are now, however, no public lands in Illinois with which such indemnity claims could be satisfied, and the established rulings of the department restrict indemnity in all cases to the limits of the State in which the original swamp premises were situated.

Charges of fraud in the mode of making swamp selections not yet patented, and of false representations as to the character of lands on which indemnity is

sought, have induced the appointment, under the Secretary's orders, of a special agent to make field examinations, and from personal investigation and by collection of credible testimony to make report with the view to definitive departmental action on claims falling in this category. His work is not yet completed, but the reports already made fully justify the precautionary measures heretofore adopted in this matter.

These reports indicate that while the mere form of proof for indemnity may be complied with, the premises on which indemnity is sought are, in many instances, among the most desirable farming lands.

The practical misconstruction of the laws of Congress, in many instances, in making swamp selections, has rendered it necessary to defer further proceedings on indemnity claims until it can be ascertained to what extent frauds may exist.

The adjustment of swamp interests in California has engaged special attention in order to make existing legislation available to the State, and relieve the matter from further delay and complication. Instructions to this end have been despatched to the surveyors general, indicating in outline past proceedings, and prescribing measures to effect an early execution of the law. Those instructions are to the following effect:

That the Secretary of the Interior at an early day had submitted two methods, by either of which the State might co-operate in making swamp selections, but that the acceptance of neither proposition had been signified. That information had been received of independent State action, which, if recognized, would lead to embarrassments, and that this office, after consultation with the State agent, had instructed the surveyors general to ascertain the swamp tracts from the field-notes, and in cases where selections have been made, and these notes were silent, to admit parole testimony. Lists of selections were thereafter transmitted here by the surveyor general, but were returned to be perfected, having been found deficient in certain essential particulars.

In regard to these, and all other swamp selections on file in the office of the surveyor general, that officer is informed they may now be perfected in accordance with instructions, and may be forwarded with the testimony for definitive adjustment. Upon being returned to the department with the proof establishing the swampy character of the premises, the tracts will be forthwith patented to the State if found vacant and uninterfered with, in accordance with the principle set forth in the act of March 12, 1860, and the decision of the Secretary of May 4, in that year, any conflicts with settlers or other rights to be determined, each case, on its merits, after notice to, and hearing the parties interested.

As the act last referred to forbids selections from surveyed lands unless made within two years from the adjournment of the legislature next ensuing the date of said act, the surveyor general's swamp lists where surveys had been completed at the date of that act must be made up from tracts selected within the specified time.

In regard to lands unsurveyed at the date of the act of 1860, but over which thereafter the lines have been established, it is the right of California to make selections within the period of limitation fixed in that act; any selections falling in this class then properly reported will be patented to the State.

No surveys executed by agents in California can be recognized, because, by express law of Congress, surveying by any parties are forbidden except by United States officers, whose surveys alone are binding upon the government, the State, and individuals. By the 10th section of the act of May 30, 1862, however, California, by her agents, can apply to the surveyor general, and in making the requisite deposit, surveys by townships may be officially executed, and so made as to cover the swamp premises which may have been heretofore unlawfully surveyed by other than United States officers. From the field-notes of these official surveys selections of swamp lands can be made, and upon receipt of the same at the department they also will be duly patented to the State.

The General Land Office has thus exerted its power to the full extent of its legal ability for the segregation in behalf of the State and the patenting of the swamp lands designed to be conceded by the statute.

RIPARIAN RIGHTS.

Where tracts with water-fronts on permanent bodies of water (lakes or rivers) have been sold by the government, the owners of the water-fronts hold in virtue of their original titles any actual accretion which may arise; but where there is a recision of the waters to any considerable extent from the surveyed meanders, the premises do not fall into the category of accretions. When such waters disappear, from natural or other causes, it is the established practice of the department to cause the lines of the public surveys to be extended over the bed of the former water-course, and after public notice to dispose of the same as other public lands.

MILITARY BOUNTY LANDS.

On the 30th September, 1865, there were outstanding and unsatisfied 59,834 warrants of the issues under the acts of 1847, 1850, 1852, and 1855, covering 6,331,860 acres.

For services in the war of the Revolution there are outstanding and unsatisfied warrants equal to 243,629 acres.

The Virginia military district, Ohio, embracing an area of 3,709,848 acres, is situated between the Little Miami and Scioto rivers, northwest of the river Ohio, and comprises, in whole or in part, twenty-two counties of that State, having been reserved by Virginia, in her cession to the United States of the northwestern territory, for the purpose of satisfying the claims for land bounty promised her officers and soldiers of the continental line in the war of the Revolution.—(Henning's Statutes at Large, vol. 11, p. 571.)

All of the lands in this district have been entered and surveyed, and for the most part carried into patent, except a residuum of some 40,000 acres, which are still unappropriated. These consist of small scattered parcels in the district, and have become the property of the general government by a deed of cession, made in 1852, from the State of Virginia. No disposition has been made of them, nor have they ever been restored to the mass of the public domain. Some of the tracts, it is supposed from recent investigation, are quite valuable, containing a quantity of timber and some mineral oil. In view of the existing relations of the government to the premises, it is recommended that all the archives, maps, plats, and records now in the charge of the surveyor of the Virginia military district, at Chillicothe, Ohio, be transferred by law to the General Land Office, with authority to prescribe rules and regulations for the location and survey of the unpatented portion, the expense thereof to be borne by locators.

COAL LANDS—TOWN PROPERTY.

By the original act for the disposal of coal lands and town property on the public domain, approved July 1, 1864, any tracts embracing coal-beds or coal-fields are made subject to sale, authority being conferred on the President to offer them to the highest bidder in suitable legal subdivisions. The surveyors general have therefore been instructed that the requirements in the official surveying manual of February 22, 1855, must be enlarged—the stipulations in the first section of said act of 1864 rendering it necessary for deputies in surveying public lands containing coal-beds or coal-fields to note such tracts in the field-notes, not only on the lines intersecting them, but their contour, in order to afford data for delineating the same in the smallest legal subdivisions upon the official plats.

The surveyors general are directed, in entering into contracts, to provide for this additional service in special instructions, it being further required that in the protraction of official township plats the coal tract shall be represented in dark purple, thereby conspicuously indicating lands of this class.

At the last session Congress passed the act of March 3, 1865, supplementary to the law of July 1, 1864, "for the disposal of coal lands and of town property in the public domain." By this supplemental enactment citizens of the United States who, at the date of the "act, may be in the business of *bona fide* actual coal-mining on the public lands for the purpose of commerce," have the right to enter 160 acres, or less quantity, in legal subdivisions, including their improvements and mining premises, at the minimum price of $20 per acre.

To give efficacy to this supplemental act, a circular has been despatched to the proper district officer to the effect that the privilege granted is restricted to a single entry by a designated class of individuals, namely, such as are citizens, and who, on the 3d of March, 1865, the date of the act, were actually engaged in the business as aforesaid; the statute expressly excluding from its provisions lands reserved by the President for public uses. Testimony is required to be produced, satisfactory to the register and receiver, showing the fact of citizenship, and of the use of the premises for the purpose indicated in the statute, the particulars to be shown in detail both as to the nature and extent of the coal-mining, the period in which the business has been conducted, and in regard to the coal being made by the party an article of commerce, so that correct judgment may be formed as to the validity of the claim. Where the proof is conclusive, the register and receiver are authorized to permit the entry according to legal subdivisions "in compact form not exceeding 160 acres."

Where the mining improvements and premises are on land surveyed "at the passage of this act," a sworn declaratory statement descriptive of the tract and premises, and of the extent and character of the improvements, must be filed within six months from the date of the act, and proof and payment made within one year from the date of the filing.

If the mining premises are on land which may be surveyed after the passage of the law, then the declaratory statement should be filed within three months from the return of the plat to the district land office, and proof and payment be made within one year from the date of such filing.

TOWN LOTS.

The second section of the supplementary act of 3d March, 1865, relates to any city or town existing on the public lands at the date of the act, and modifies the limitation as to the extent of the areas of the town claim and town lots, imposed by act of 1st July, 1864.

The act of July 1, 1864, limits the town claim to 640 acres, and the town lots to 4,200 feet each; but this supplemental law embraces interests in which the lots and buildings, as municipal improvements, shall cover an area greater than 640 acres, by declaring that any city or town existing on 3d March, 1865, shall not be debarred because of such excess of area over or of variance from the size of the town claim or town lots, as limited by the act of 1st July, 1864; that for the excess of square feet contained in lots over the maximum named in the act to which this is amendatory the minimum price shall be increased to such reasonable amount as the Secretary may establish.

In the second section of the supplemental law it is provided that parties having a possessory right to mineral veins, "which possession is recognized by local authority," are to be protected therein, and titles to be acquired to town lots under this act are made subject to "such recognized possession and the necessary use thereof," yet with an express saving of the paramount title of the United States

The act of 1st July, 1864, relating to town property, is only modified as regards the extent of the town claim and the size of town lots. Hence it will be necessary for the citizens of the town or city existing at the date of the supplemental act to file with the recorder of the county in which the town or city is situate a plat thereof, describing its exterior boundaries, and according to the lines of the public surveys where such surveys have been executed. Also, the plat or map of such city or town must exhibit the name of the city or town, the streets, squares, blocks, lots, and alleys, the size of the same, with actual measurements and area of each municipal division, and a statement of the extent and general character of improvements.

The map and statement must be verified by oath of the party acting for and on behalf of the city or town, and within one month after filing the map or plat with the recorder of the county a verified copy of the same and of the statement must be sent to the Commissioner of the General Land Office, with the testimony of two witnesses that the town is a *bona fide* one, established and existing at the date of the act of 1865.

Where the city or town is within the limits of an organized land district, a similar copy of the map and statement must be filed with the register and receiver.

Where the city or town is founded on unsurveyed land, the exterior lines thereof must be distinctly marked and established, so that when the lines of the public surveys shall hereafter be run they may be properly closed therein; it may, in fact, be proper to adjust the exterior limits of the premises in accordance with the lines of the public surveys, when it can be done without impairing the rights of others.

By the second section of act of 1st July, 1864, after the transcript and statement have been filed in the General Land Office, the lots are to be offered at public sale to the highest bidder at a minimum of ten dollars per lot; but by the supplemental act, when the area of each lot exceeds the maximum of 4,200 square feet, the minimum price is reasonably to be increased by the Secretary.

A privilege, however, is granted to any actual settler of pre-empting one lot, and also one additional lot on which he may have "substantial improvements," at the minimum or increased price, at any time before the day fixed for the public sale.

Inquiries have been made of the department by the land office in Colorado as to whether the act approved 3d March, 1865, supplemental to the coal land and town-property law of 1st July, 1864, should be "so construed as to admit of the entries of towns located on lands where mineral is known to exist," and whether entries should be allowed of the "mountain towns in Colorado." These officers have consequently been instructed that the act of 3d March, 1865, takes hold of towns actually existing on the public lands prior and up to the date of that law; that the inquiry must be answered in the affirmative; yet with this express understanding and direction, that in acting upon cases of towns in what is known to be the mineral region it will be the duty of the land officers to inquire whether the tracts covered by municipal subdivisions contain the precious metals as the predominating element of value, and where such is shown to be the case the proof must be sent on, with their opinion in that respect, accompanied by all the papers, in order that such saving clause may be inserted in the patents as may be legal and proper.

DENVER CITY TOWN SITE.

By the act of Congress approved 28th May, 1864, for the relief of the citizens of Denver, in the Territory of Colorado, the provisions of the town site law of 23d May, 1844, are extended, enlarged, and made applicable to that place, so as to authorize an entry at the minimum price of a certain section and

a half of land, or such portions thereof as are settled and actually occupied for town purposes by the town of Denver, the entry to be in trust for the several use and benefit of the rightful occupants and the *bona fide* owners of the improvements thereon according to their respective interests, reserving from said sale and entry such blocks or lots in the town as may be necessary for government purposes.

By the fifth section of the act 1st July, 1864, for the disposal of coal lands and town property on the public domain, the town site act of 23d May, 1844, is repealed.

A question having been raised as to whether this general repeal is retroactive and embraces the special act of 28th May, 1864, for the relief of the citizens of Denver, this office decided that it does not; that the repealing provisions are prospective from the date of said act of 1st July, 1864, and the special act aforesaid of 28th May, 1864, stands in full force and effect.

HOMESTEAD LAW.

The second section of the homestead act of May 20, 1862, declares, in regard to entries under this law, that "on payment of ten dollars he or she shall thereupon be permitted to enter the quantity of land specified: *Provided, however*, That no certificate shall be given or patent issued therefor until the expiration of five years from the date of such entry, and if, at the expiration of such time, or at any time within two years thereafter, the person making such entry—or, if he be dead, his widow, or in case of her death his heirs or devisee, or in case of a widow making such entry, her heirs or devisee, in case of her death—shall prove, by two credible witnesses, that he, she, or they have resided upon or cultivated the same for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and make affidavit that no part of said land has been alienated, and that he has borne true allegiance to the government of the United States, then in such case he, she, or they if at that time a citizen of the United States, shall be entitled to a patent as in other cases provided for by law."

Questions have arisen under the law as to the right of the heirs of a party, who, after taking initiatory steps required by the statutes, had entered the army and died in the military service of the United States. To give efficacy to the right of such heirs, proof satisfactory to the register and receiver must be produced establishing the fact of his actual entrance and death in the military service.

The register and receiver will then have authority to credit the claim as settled and cultivated from date of entry to date of soldier's decease; but the heirs must keep up continuous actual settlement for such period, starting after death of the soldier, as, with the time to be credited, will make up the full period of five years of actual settlement and cultivation from date of entry. At the expiration of five years the requisite proof of settlement and cultivation must be produced to the satisfaction of the register and receiver when in accordance with the ruling above indicated, and thereupon it will be the duty of the register to issue a patent certificate in favor of the heirs of the decedent, following the rule in this respect prescribed by the second section of the pre-emption act of March 3, 1843, in regard to deceased pre-emptors. It has been decided that a party in the land or naval service of the United States, who has entered under the homestead law in accordance with the act of March 21, 1864, is not required to make actual settlement on the land until discharged from service, but after such discharge he must thereupon immediately settle upon the tract, and comply fully with all the requirements of the original law of May 2, 1862. Where parties wish to pay for the homestead before the expiration of the five years, proof of settlement and cultivation must be made, as the law directs, up to the date of such payment.

Inquiries have been made as to whether a party who entered lands under the homestead act can be "allowed to erect mills upon the same, and cut and remove the timber thereon for the use of said mills, without making other improvements and cultivating the land."

Hence, it has been held that the homestead oath expresly requires "cultivation," and consequently it is incumbent on the settler to prove cultivation before he receives patent. At what period of his settlement he is to cultivate the law does not declare, but it is manifest he cannot subsist on the land without cultivation, unless he has other resources. Therefore, if he fail to plough, to sow, to reap, his mill will not avail him, as the timber sawed can only be applied in improving his settlement—such as in building, fencing, and constructing implements necessary for agriculture or some domestic use.

Should the settler, however, cut and saw timber for purposes other than the improvement of the land, namely, for sale, it will be liable to seizure. In granting a homestead right, Congress contemplated *bona fide* in the settler, and any abuse or waste tending to impair the value of the land before maturity title, viz., at the end of five years' residence and cultivation, is in conflict with the meaning of the homestead law, and prohibited.

WISCONSIN FIVE PER CENT. FUND AND MILWAUKIE AND ROCK RIVER CANAL COMPANY.

Wisconsin five per cent. fund.

The act of June 18, 1828, granted to the Territory and State of Wisconsin 138,996 acres of public land to aid in the construction of a canal to connect the waters of Lake Michigan with those of Rock river. As the canal was not constructed, the lands, by the terms of the act, reverted to the United States. The State, however, having sold 125,431$\frac{82}{100}$ acres thereof, the matter was referred to the Attorney General, under whose opinions of July 24, 1852, and September 18, 1854, the lands thus sold were computed at $2 50 per acre, and charged against the five per cent. fund of the State, amounting to $313,579 55. The five per cent. fund on December 30, 1862, was found to be $250,139 11, leaving a balance due the United States of $63,440*44. Against this sum was charged, as offset, the accrued five per cent. fund from time to time.

By joint resolution of July 1, 1864, for the relief of the State of Wisconsin, it was provided that the Secretary of the Interior, in adjusting the five per centum of the net proceeds of sales within the limits of the State of Wisconsin, should estimate and charge against the State the value of the aforesaid 125,431$\frac{82}{100}$ acres, at $1 25 per acre, and that the State should be credited with the amount legally and properly applied towards the cost of selling the lands and constructing the canal.

The Commissioner of the General Land Office was designated to adjust the account under supervision of the Secretary, and to determine the sum chargeable to the State, and what sum should be credited. Under this resolution an account was presented in behalf of Wisconsin, admitting a balance due the United States of $88,433 91. On the adjustment, a balance was found due the United States of $101,355 05, caused by rejecting items charged by the State, amounting to $12,921 14, as not "legally or properly applied" towards selling the granted lands or constructing the canal. The account between the United States and the State of Wisconsin, as adjusted, may briefly be summed up as follows:

125,431$\frac{82}{100}$ acres, at $1 25	$156,789 77
Amount of expenditures allowed	55,434 72
Leaving amount charged to the State under resolution	101,355 05
The five per cent. fund as above stated is	250,139 11
Leaving a balance due the State of	148,784 06