

## Appendix II

## EXCERPTS FROM THE LAND LAWS OF THE UNITED STATES

## I

## 1. The Pre-emption Law

An Act to appropriate the proceeds of the sales of the public lands and to grand pre-emption rights.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.....

Sec. 9. ... That the lands herein granted to the States ... shall not be disposed of at a price less than one dollar and twenty-five cents per acre, until otherwise authorized by a law of the United States; and the net proceeds of the sales of said lands shall be faithfully applied to objects of internal improvement within the states. ...

Sec. 10. And be it further enacted That from and after the passage of this act, every person being the head of a family, or widow, or single man over the age of twenty-one years and being a citizen of the United States, or having filed his declaration of intention to become a citizen, as required by the naturalization laws, who since the first day of June, A.D. nineteen hundred and forty, has made or shall hereafter make a settlement in person on the public lands to which the Indian title has been at the time of such settlement extinguished, and which has been, or shall have been surveyed prior thereto, and who shall inhabit, and improve the same, and who has or shall erect a dwelling thereon, shall be, and is hereby authorized to enter with the register of the land office for the district in which such land may lie, by legal subdivisions, any number of acres not exceeding one hundred and sixty, ... to include the residence of such claimant, upon paying to the United States the minimum price of such land, subject, however, to the following limitations and exceptions: No person shall be entitled to more than one preemption right by virtue of this act; no person who is the proprietor of three hundred and twenty acres of land in any State or Territory of the United States, and no person who shall quit or abandon his residence on his own land to reside on the public land in the same State or Territory, shall acquire any right of pre-emption under this act;...

Sec. 11. And be it further enacted, That when two or more

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United States Statutes at Large, 5:455--456

for the term of five years immediately succeeding the time of filing the affidavit aforesaid, and shall make affidavit that the 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:...

Sec. 6. And be it further enacted, That no individual shall be permitted to acquire title to more than one quarter-section under the provisions of this act;... and that the registers and receivers of the several land offices shall be entitled to receive the same compensation for any lands entered under the provisions of this act that they are now entitled to receive when the same quantity of land is entered with money, one half to be paid by the person making the application at the time of so doing, and the other half on the issue of the certificate by the person to whom it may be issued;... Provided, That nothing in this act shall be so construed as to impair or interfere in any manner whatever with existing pre-emption rights: And provided further, That all persons who may have filed their application for a pre-emption right prior to the passage of this act, shall be entitled to all privileges of this act:...

Sec. 8. And be it further enacted that nothing in this act shall be so construed as to prevent any person who has availed him or herself of the benefits of the first section of this act, from paying the minimum price, or the price to which the same may have graduated, for the quantity of land so entered at any time before the expiration of five years, and obtaining a patent therefor from the government, as in other cases provided by law, on making proof of settlement and cultivation as provided by existing laws granting pre-emption rights.

Approved May 20, 1862.

### III Amendments to the Homestead and Pre-emption Laws 3

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled....

Sec. 2. That any person who has not heretofore perfected title to a tract of land of which he has made entry under the homestead law, may make a homestead entry of not exceeding one-quarter section of public land subject to such entry, such previous filing or entry to the contrary notwithstanding; but this right shall not apply to persons who perfect title to lands under the pre-emption or homestead laws already initiated; provided, That all pre-emption settlers upon the public lands whose claims have been initiated prior to the passage of

this act may change such entries to homestead entries and proceed to perfect their titles to their respective claims under the homestead law notwithstanding they may have heretofore had the benefit of such law, but such settlers who perfect title to such claims under the homestead law shall not thereafter be entitled to enter other lands under the pre-emption or homestead laws of the United States.

Sec. 3. That whenever it shall be made to appear to the register and receiver of any public land office, under such registrations as the Secretary of the Interior may prescribe, that any settler upon the public domain under existing law is unable by reason of a total or partial destruction or failure of crops, sickness, or other unavoidable casualty, to secure a support for himself, herself, or those dependent upon him or her upon the lands settled upon, then such register and receiver may grant to such settler a leave of absence from the claim upon which he or she has filed for a period not exceeding one year at any one time, and such settler so granted leave of absence shall forfeit no rights by reason of such absence: Provided, that the time of such actual absence shall not be deducted from the actual residence required by law. ...

Approved March 2, 1889

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#### IV. THE TIMBER-CULTURE LAW

An Act to encourage the growth of Timber on Western Prairies.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress Assembled, That any person who shall plant, protect and keep in a healthy, growing condition for ten years forty acres of timber, the trees thereon not being more than twelve feet apart each way on any quarter section of any of the public lands of the United States shall be entitled to a patent for the whole of said quarter-section at the expiration of said ten years, on making proof of such fact by not less than two credible witnesses: Provided that only one quarter in any section shall be thus granted.

Sec. 2. That the person applying for the benefit of this act shall, upon application to the register of the land office in which he or she is about to make such entry, make affidavit before said register or receiver that said entry is made for the cultivation of timber, and upon filing said affidavit with said register and receiver, and 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 issue therefor until the expiration of at least ten years from the date of such entry;...

4

Ibid., 17:605-606.



Sec. 4. That each and every person who..having a homestead on said public domain, who at the end of the third year of his or her residence thereon, shall have had under cultivation for two years, ~~an~~ acre of timber, the ~~traces~~ trees thereon not being more than twelve feet apart each way, and in a good, thrifty condition, for each and every sixteen ~~an~~ acres of said homestead, shall upon due proof of said fact by two credible witnesses receive his or her patent for said home-stead.

Approved, March 3, 1873

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## V Amendments to the Timber-Culture Law

Be it enacted by the Senate and House of representatives of the United States of America in Congress assembled,...

Sec. 2. That the person applying for the benefits of this act shall, upon application to the register of the land district in which he or she is about to make such entry, make affidavit before the register or the receiver, or the clerk of some court of record, or officer authorized to administer oaths in the district where the land is situated; which affidavit shall be as follows, to-wit:..that I have made the same application in good faith, and not for the purpose of speculation, or directly or indirectly for the use or benefit of any other person or persons whomsoever; that I intend to hold and cultivate the land, and to fully comply with the provisions of this said Act; and that I have not heretofore made an entry under this act, or the acts of which this is amendatory. And upon filing said affidavit with said register and said receiver and on payment of ten dollars, if the tract is for more than eighty acres; and five dollars if it is eighty acres or less, he or she shall thereupon be permitted to enter the quantity of land specified and the party making an entry of a quarter-section under the provisions of this act shall be required to break or plow five acres covered thereby the first year, five acres the second year and to cultivate to crop or otherwise the five acres broken or plowed the first year; the third year he or she shall cultivate to crop or otherwise the five acres broken the second year, and to plant in timber, seeds or cuttings the five acres first broken or plowed, and to cultivate and put in crop or otherwise the remaining five acres, and the fourth year to plant to timber, seeds or cuttings the remaining five acres. All entries of less quantity than one-quarter section shall be plowed, planted, cultivated and planted to trees, tree-seeds, or cuttings in the same manner and in the same proportion as hereinbefore provided for a quarter-section. Provided, however, that in case such trees, seeds, or cuttings shall be

destroyed by grasshoppers, or by extreme and unusual drouth, for any year or term of years, the time for planting such trees, seeds or cuttings shall be extended one year for every such year that they are so destroyed:....And provided further, that no final certificate shall be given, or patent issued, for the land so entered until the expiration of eight years from the date of such entry; and if at the expiration of such time, or at any time within five years thereafter, the person making such entry...shall prove by two credible witnesses that he or she or they have planted and for not less than eight years have cultivated and protected such quantity and character of trees as aforesaid; and that not less than twenty-seven hundred trees were planted on each acre, and that at the time of making such proof there shall be then growing at least six hundred and seventy-five living and thrifty trees to each acre, they shall receive a patent for such tract of land. ...

VI. Amendments to the Timber<sup>6</sup>-Culture Law and the Pre-emption Law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That an act entitled "An Act to encourage the growth of timber on the western prairies."..and all laws supplementary thereto or amendatory thereof, be, and the same are hereby repealed: Provided that this repeal shall not affect any valid rights heretofore accrued or accruing under said laws, but all bona fide claims lawfully initiated before the passage of this act may be perfected upon due compliance with the law, in the same manner, upon the same terms and conditions, and subject to the same limitations, forfeitures and contests as if this act had not been passed: And provided further, That the following words of the last clause of section two of said act, namely, "That not less than twenty-seven hundred trees were planted on each acre," are hereby repealed:....

Sec. 4. That chapter four of title thirty-two, excepting sections seventy-six,... and eighty-six, of the Revised Statutes of the United States, and all other laws allowing pre-emption of the public lands of the United States, are hereby repealed, but all bona fide claims lawfully initiated before the passage of this act, under any of such provisions of law so repealed, may be perfected upon due compliance with law, in the same manner and upon the same terms and conditions, and subject to the same limitations, forfeitures, and contests, as if this act had not been passed. ...

Approved, March 3, 1891.

## VII. The Desert Land Law

An Act to provide for the sale of desert lands in certain states and Territories--

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That it shall be lawful for any citizen of the United States, or any person of requisite age"who may be entitled to become a citizen, and who has filed his declaration to become such" and upon payment of twenty-five cents per acre--to file declaration under oath with the register and the receiver of the land district in which any desert land is situated, that he intends to reclaim a tract of desert land not exceeding one section, by conducting water upon the same, within the period of three years thereafter. ...Said declaration shall describe particularly said section of land as nearly as possible without a survey. At any time within the period of three years after filing said declaration, upon making satisfactory proof to the register and receiver of the reclamation of said tract of land in the manner aforesaid, and upon the payment to the receiver of the additional sum of one dollar per acre for a tract of land not exceeding six hundred and forty acres to any one person, a patent for the same shall be issued to him. Provided that no person shall be permitted to enter more than one tract of land and not to exceed six hundred and forty acres which shall be in compact form.

Section 2. That all lands exclusive of timber lands and mineral lands which will not, without irrigation, produce some agricultural crop, shall be deemed desert lands, within the meaning of this act, which fact shall be ascertained by proof of two or more credible witnesses under oath, whose affidavits shall be filed in the land office in which said tract of land may be situated.

Section 3. That this act shall only apply to and take affect in the States of California, Oregon and Nevada and the Territories of Washington, Idaho, Montana, Utah, Wyoming, Arizona, New Mexico and Dakota, and the determination of what may be considered desert land shall be subject to the decision and regulation of the Commissioner of the General Land Office

Approved, March 3, 1877

## VIII. Amendments to the Desert Land Law.

Be it enacted by the Senate and House of Representatives



of the United States of America in Congress assembled. ...

Sec. 2. That an act to provide for the sale of desert lands in certain States and Territories, approved March third, eighteen hundred and seventy-seven, is hereby amended by adding thereto the following sections:

Sec. 4. That at the time of filing the declaration hereinbefore required, the party shall also file a map of said land which shall exhibit a plan showing the mode of contemplated irrigation, and which plan shall be sufficient to thoroughly irrigate and reclaim said land, and prepare it to raise ordinary agricultural crops and shall also show the source of the water to be used for irrigation and reclamation. Persons entering or proposing to enter separate sections, or fractional parts of sections of desert lands, may associate together for the construction of canals and ditches for irrigating and reclaiming all of said tracts, and may file a joint map or maps showing their plan of internal improvements.

Sec. 5. That no land shall be patented to any person under this act unless he or his assignor shall have expended in the necessary irrigation, reclamation, and cultivation thereof, by means of main canals and branch ditches, and in permanent improvements upon the land, and in the purchase of water rights for the irrigation of the same, at least three dollars per acre of whole tract reclaimed and patented in the manner following: Within one year after making entry for such tract of desert land as aforesaid the party so entering shall expend not less than one dollar per acre for the purposes aforesaid; and he shall in like manner expend the sum of one dollar per acre during the second and also during the third year thereafter, until the full sum of three ~~hundred~~ dollars per acre is so expended. Said party shall file during each year with the register proof, by the affidavits of two or more credible witnesses, that the full sum of one dollar per acre has been expended in such necessary improvements during such year, and the manner in which expended, and at the expiration of the third year a map or plan showing the character and extent of such improvements. If any party who has made such application shall fail during any year to file the testimony aforesaid the lands shall revert to the United States, and the twenty-five cents advanced payment shall be forfeited to the United States, and the entry shall be cancelled. Nothing herein contained shall prevent a claimant from making his final entry and receiving his patent at an earlier date than hereinbefore prescribed, providing that he then makes the required proof of reclamation to the aggregate extent of three dollars per acre: Provided, That proof be further required of the cultivation of one eighth of the land. ...

Approved, March 3, 1891.

## APPENDIX III

## STATE LAWS ON THE REGULATION OF FREIGHT RATES

1

II

Be it enacted by the Legislature of the State of Washington:

Section 1. No individual, company or corporation, owning, operating, managing or leasing any railroad, or part of a railroad in this state, shall charge for or receive a greater or higher rate for carrying wheat, barley, flour or other mill stuffs, potatoes, melons or hay, than eighty-five per centum of the rates actually charged for carrying said articles or commodities on the first day of December, 1890: Provided that no greater rate than five dollars (\$5.00) a ton shall be charged for carrying the articles or commodities hereinbefore enumerated for a haul of five hundred miles or less.

Section 2. The maximum rates of freights on all railroads in this state other than on those articles or commodities enumerated in section 1 of this act shall be the rates that were in existence on the first day of December, 1890.---

(Passed over the governor's veto, February 2, 1893)

2

II

Be it enacted by the Legislature of the State of Washington:

Section 1: No individual, company or corporation, owning, operating, managing or leasing any railroad or part of a railroad in this state shall charge for or receive a greater or higher rate for carrying wheat, barley, flour, flaxseed, rye or other mill stuffs, oats, potatoes or hay, than eighty-five per centum of the rates existing for carrying said articles or commodities on the third day of January, 1893: Provided, That no greater rate than four and 75-100 dollars per ton shall be charged for carrying the articles or commodities hereinbefore enumerated in carload lots for a haul of five hundred miles or less.

Section 2. The maximum rates of freight on all railroads

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Session Laws of the State of Washington, 1893, P. 3

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Ibid. 210.



in this state other than on these articles or commodities enumerated in section one of this act shall be the rates that were in existence on the third day of January, 1893: Provided that this section shall not apply in respect to rates that were in existence at the date last named, made in competition with transportation wholly or partly by water.

Section 3. Any individual, company or corporation owning, operating, managing or leasing any railroad in this state feeling that the rates established by sections one and two of this act are unreasonably low, shall have recourse to courts of competent jurisdiction, which shall grant such relief as may appear just and reasonable.

Approved March 9, 1893.

## 3

## III

Be it enacted by the Legislature of the State of Washington:

Section 1. No railroad, company or other common carrier, its agents or employes, doing business within this state shall charge for hauling agricultural products as defined in this section, in carload lots from one point within this state to another point within this state at a rate exceeding \$4.25 per ton for a distance of haul of 350 miles or over; and at a rate exceeding 90 per cent of the rate actually in effect on the Northern Pacific Railway between the same points in the state of Washington, on January 2, 1897, for any distance within this state: Provided, That no charge for hauling freight aforesaid, in carload lots, in this section mentioned shall exceed \$4.25 per ton from any point within this state to another point within this state. "Agricultural products mentioned herein is defined to be corn, grain of all kinds, flour, feed, mill stuffs, flax seed, hay compressed in bales, hops compressed in bales.

Sec. 2-No railroad company or other common carrier, its agents or employes doing business within the State of Washington shall charge for hauling in carload lots, fruit in boxes, barrels, or crates; potatoes, onions and vegetables of all kinds in sacks, boxes or barrels; and eggs in boxes, barrels or cases; and butter in boxes, barrels or pails; and cheese tallow and lard in barrels, kegs or cans; and wool in sacks, from one point within this state to another point within this state at a rate exceeding 80 per cent, of the rate charged by said railroad or carrier for hauling or carrying a like kind of the freight on the second day of January, 1897, on the basis of the rate charged by the Northern Pacific Railway Company on the second day of January, 1897. ...

Approved by the Governor, March 13, 1897.

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