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INSTRUCTIONS  
TO  
SPECIAL AGENTS  
OF THE  
GENERAL LAND OFFICE  
APPOINTED TO  
PREVENT TIMBER DEPREDATIONS UPON GOVERNMENT LANDS  
AND TO  
PROTECT THE PUBLIC TIMBER FROM WASTE AND DESTRUCTION.

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WASHINGTON:  
GOVERNMENT PRINTING OFFICE.  
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## GENERAL LAND OFFICE

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DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,

*Washington, D. C., June 1, 1883.*

The following instructions to special timber agents and the rules and regulations contained herein are hereby prescribed by this office, and all special timber agents of this office will hereafter be governed by and comply with the same.

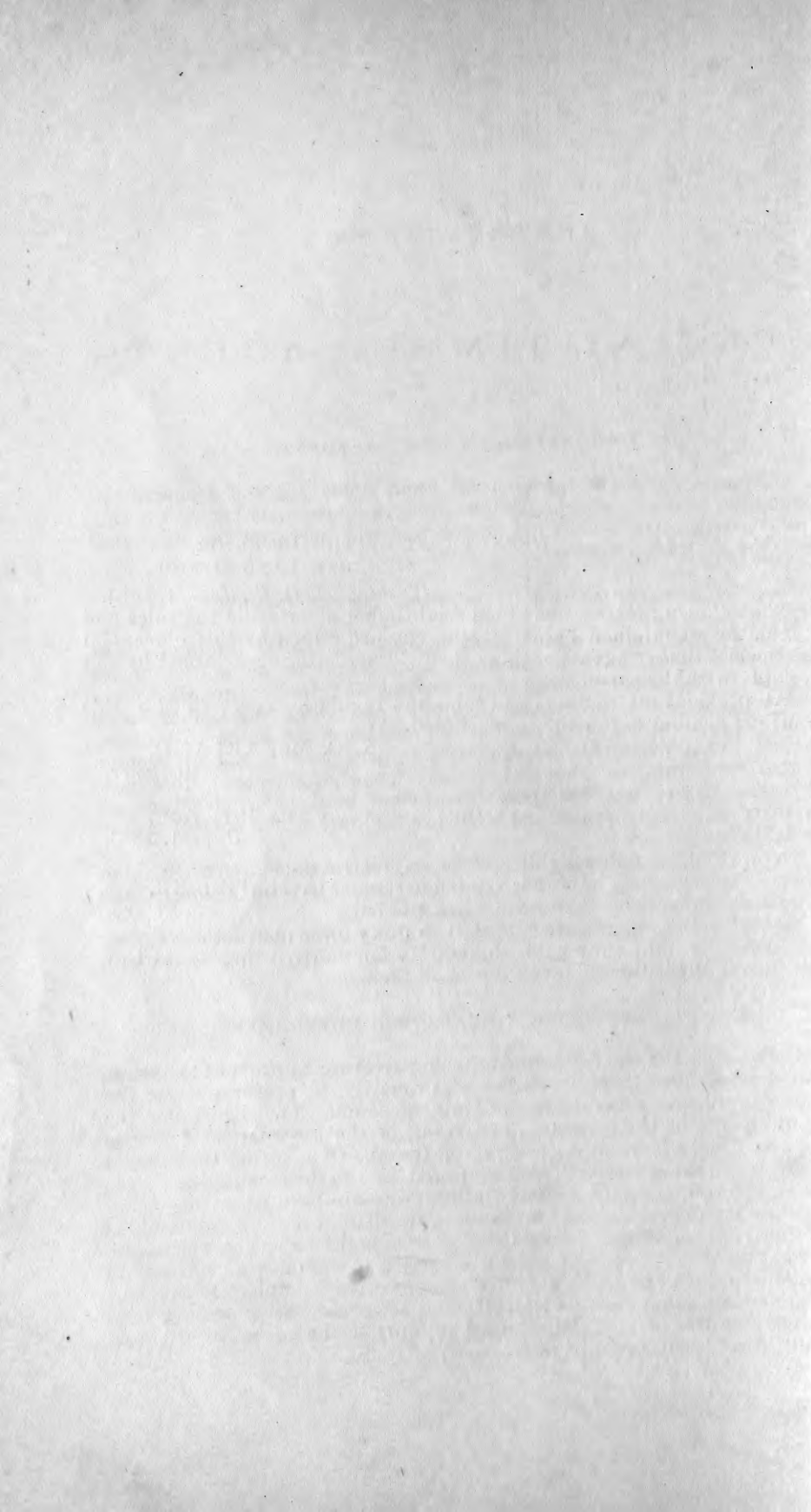
All previous instructions and rules and regulations prescribed by this office in conflict herewith are rescinded.

N. C. MCFARLAND,  
*Commissioner.*

DEPARTMENT OF THE INTERIOR,  
*June 1, 1883.*

Approved.

H. M. TELLER,  
*Secretary.*



## INSTRUCTIONS

TO

# SPECIAL TIMBER AGENTS.

### DESIGNATION OF SPECIAL AGENTS.

1. Special agents of the General Land Office, Interior Department, appointed to prevent depredations upon the public timber and to protect the same from waste and destruction will hereafter be designated as "special timber agents."

### QUALIFICATIONS OF SPECIAL TIMBER AGENTS.

2. A special timber agent must, in order to render intelligent and effective service, have a thorough understanding as to the object sought to be accomplished in protecting the timber growing upon Government land; the classes of lands upon which the timber needs protecting, or upon which timber depredations are liable to be committed; what persons are authorized or permitted to fell or remove timber therefrom, to what extent and for what purpose; what constitutes a timber trespass upon Government land; what penalties are attached to such trespass, and what are the duties of a special timber agent in the premises.

To this end the following directions and instructions are issued. For ready reference they have been arranged under several headings, and the paragraphs under each heading numbered.

Special timber agents are expected to study these instructions closely and carefully until they have thoroughly familiarized themselves with the nature of the duties devolving upon them.

### OBJECT OF PROTECTING TIMBER UPON GOVERNMENT LAND.

3. The object of the Government in endeavoring to prevent the waste and destruction of public timber is, primarily, to preserve it for the wants of future generations—having, of course, due regard for the requirements of the present. The result of the destruction of forests in permitting a more rapid melting of the snows in spring than would occur in the same region if well sheltered, and in decreasing the capacity of the soil to retain moisture after rains—in both cases increasing the liability to sudden and devastating floods, not only in the denuded sections, but sometimes hundreds of miles distant—also the well-established climatic influence of such destruction in diminishing the annual rainfall, to the serious detriment of regions already subject to frequent droughts, are other reasons which render the preservation of the public timber a matter of vital importance not only to the agricultural but to many other extensive interests.



## CLASSES OF GOVERNMENT LAND.

4. Government land embraces all land the title to which is in the Government; and for the present purpose may be divided into four classes:

- 1st. Vacant unoccupied public land;
- 2d. Land covered by homestead, pre-emption, or other entry, upon which the claimant has not so fulfilled his obligations under the law as to entitle him to patent;
- 3d. Mineral lands;
- 4th. Military, naval, Indian, and other Government reservations.

## VACANT PUBLIC LAND.

5. All unoccupied lands of the United States to which no valid claim has attached, and which are subject to homestead, pre-emption, or other entry, or which can be sold or otherwise disposed of by the United States, are vacant public lands.

6. From such lands, if not mineral in character (see "**Mineral lands**," page 7), no person or persons can lawfully fell or remove any timber, except right of way railroad companies for certain purposes, and under certain conditions.

(See "**Right of railroad companies to take timber from public land**," page 9.)

## LANDS COVERED BY HOMESTEAD OR PRE-EMPTION ENTRY.

7. Lands covered by homestead or pre-emption claims are lands upon which citizens of the United States have made entry, and have filed certain papers in the proper district land office, obligating themselves to conform to the requirements of the law as to occupancy, cultivation, and improvement.

8. The claimant to any such land, provided he is living upon, cultivating, and improving the same in accordance with law and the rules and regulations prescribed by this Department, is permitted to cut and remove, or cause to be cut and removed, from the portion thereof to be cleared for cultivation, so much timber as is actually necessary for that purpose, or for buildings, fences, and other improvements on the land entered.

9. In clearing for cultivation, should there be a surplus of timber over what is needed for the purposes above specified, he may sell or dispose of such surplus; but it is not allowable for him to denude the land of its timber for the purpose of sale or speculation until he has made final proof and acquired title. (See Decisions 3, 4, and 5, appendix, page 29.)

10. Where the facts justify the conclusion that the person has made his entry in good faith, and is cultivating and improving the land with the purpose of making it his home, the agent need not consider it his duty to report every deviation from the preceding rule. But where the person does not make the land his actual residence, and cultivate and improve the same, or where the value of the timber cut and removed is greatly in excess of the improvements, or where other facts afford a strong presumption that the entry was not made in good faith, but solely for the purpose of denuding the land of its timber, the case should be at once reported to this office.

11. No person other than the one making the entry has a right to cut timber from such land for any purpose whatever.



## MINERAL LANDS.

12. Mineral lands are those which are more valuable for the mineral therein than for agricultural purposes or for the timber thereon.

13. The right to take timber from mineral lands for building, agricultural, mining, or other domestic purposes is specially provided for under act of Congress approved June 3, 1878, as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That all citizens of the United States and other persons, *bona fide* residents of the State of Colorado or Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and all other mineral districts of the United States, shall be, and are hereby, authorized and permitted to fell and remove, for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being on the public lands, said lands being mineral, and not subject to entry under existing laws of the United States, except for mineral entry, in either of said States, Territories, or districts of which such citizens or persons may be at the time *bona fide* residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for the protection of the timber and of the undergrowth growing upon such lands, and for other purposes: *Provided*, The provisions of this act shall not extend to railroad corporations.

SEC. 2. That it shall be the duty of the register and the receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any such lands, except for the purposes authorized by this act, within their respective land districts; and, if so, they shall immediately notify the Commissioner of the General Land Office of that fact; and all necessary expenses incurred in making such proper examinations shall be paid and allowed such register and receiver in making up their next quarterly accounts.

SEC. 3. Any person or persons who shall violate the provisions of this act, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and, upon conviction, shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months.

14. Rules and regulations under the preceding act have been prescribed by this Department under dates of August 16, 1878 (see pages 24 to 26), July 1, 1880, and July 1, 1882; but those of the two earlier dates are no longer in full force, the one having been revoked and the other modified by that of the last-named date, which is as follows:

The rules and regulations heretofore prescribed by this Department under act of Congress approved June 3, 1878, entitled "An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber from the public domain for mining and domestic purposes," are hereby modified as follows:

All citizens and *bona fide* residents of the States and Territories mentioned therein are authorized to fell and remove, or employ others to fell and remove, or to purchase from others who fell and remove, any timber growing or being upon the public mineral lands in said States or Territories; *Provided*,

1. That the same is not for export from the State or Territory where cut.
2. That no timber less than eight inches in diameter is cut or removed.
3. That it is not wantonly wasted or destroyed.\*

\* \* \* \* \*

As the rules and regulations in relation to the cutting and removing of timber from the public mineral lands are modified as hereinbefore stated, all agents and officers of this Department are hereby instructed that in reporting cases of alleged trespass they will be governed in their report upon the mineral or non-mineral character of the land by the following general rule:

Where the lands are situated in districts of country that are mountainous, interspersed with gulches and narrow valleys, and minerals are known to exist at different points therein, such lands, in the absence of proof to the contrary, will be held to be mineral in character; but where there are extensive valleys, plains, or mountain ranges, and no known minerals exist, the land may be considered and treated as non-mineral.

\* The portion of the circular here omitted related to the right of railroad companies to take timber; and has been amended by office circular of March 3, 1883 (approved March 5, 1883). See "Right of railroad companies to take timber," page 9.)

Said agents and officers are further instructed that hereafter, in forwarding reports in cases of timber trespass, a simple statement to the effect that the lands in question are mineral or non-mineral in character will not be regarded by this office as sufficient proof; evidence establishing that fact must in all cases accompany and form a part of said report.

In investigating cases of timber trespass in *mineral* districts said agents and officers will be careful hereafter to report only those cases in which there has been a violation of the rules and regulations above specified.

All rules and regulations heretofore prescribed by this Department in cases of timber trespass upon public lands *non-mineral* in character remain in force.

All rules and regulations or instructions heretofore prescribed under said act of June 3, 1878, by this Department inconsistent with the provisions contained in this circular are hereby rescinded.

15. The following portion of the circular issued by this office under date of September 19, 1882 (approved September 21, 1882), applies also to the cutting and removal of timber from public mineral lands authorized by said act of June 3, 1878:

One of the most dangerous elements to contend with in case of forest fires, and one of the principal auxiliaries to the spread of the same, is the dry tops of trees which parties leave upon the ground after having cut and removed the timber for saw logs and other purposes. When the tree tops can be profitably cut into wood, the person cutting such trees on public land—when such cutting is authorized by law—must cut the tops into wood, or at least cut up and pile the brush in such manner as to prevent the spread of fires.

A failure on the part of woodsmen to utilize all of the tree that can profitably be used, and to take reasonable precaution to prevent the spread of fires, will be regarded by this office as wanton waste, and subject them to prosecution for wanton waste and destruction of public timber.

16. Non-residents of a mineral district are not authorized, under any circumstances, to fell or remove timber from public mineral lands in said district, except for use in such district.

17. Railroad companies are prohibited from the privileges granted in said act; that is, they cannot take timber from public mineral lands for buildings, fuel, &c.; but are not prohibited from taking timber from such lands for construction purposes, as authorized under act of March 3, 1875.

18. Special attention is called to the fact that the authority granted in said act of June 3, 1878, applies exclusively to lands which are strictly mineral in character and subject to mineral entry only. The evidence must be positive that such lands are more valuable for the mineral thereon than for any other purpose, and that they are not suitable for agricultural purposes or cultivation, or valuable solely for the timber thereon.

19. Every report of an alleged depredation upon public land in a mineral district must be accompanied by affidavits from two entirely disinterested and responsible persons as to the mineral or non-mineral character of the land. (See Forms No. 11 and 12, page 36.)

20. The object of the Department in providing that such timber shall not be exported is, to protect the settlers in sparsely timbered districts from being deprived of the timber necessary for their domestic uses. It is not, however, the intent of the Department to strictly enforce a technical prohibition in cases where the interests of the settlers in the districts from which timber is cut and removed are not injuriously affected thereby.

21. The removing of timber or lumber from one State or Territory across the line into an adjoining State or Territory, but not out of the same general district or section of country, is not such exportation as it is intended to prohibit.

22. In investigating cases of alleged export, special timber agents must examine carefully into all the facts, and report in full, especially as to the manner in which the settlers and residents of the district from which the timber is cut and removed are affected thereby.

23. The object of the Department in prohibiting the cutting or removing of trees less than eight inches in diameter is the preservation of the young timber and undergrowth, so as to provide a supply for the future, when such trees shall have matured. But it is not the intention to prohibit the cutting or removal of any full-grown tree belonging to a species which, *when mature*, does not exceed eight inches in diameter, or of any mature tree; nor of trees of any description, even if less than eight inches of diameter, if it can be shown that there were no other trees in that vicinity. Therefore in investigating cases of alleged trespass where the trees cut or removed are of less than the prescribed size, the agent must ascertain and report the species of tree so cut or removed, the average size which trees of that species attain in that section of country, and whether the trees cut and removed were growing trees, or trees of mature growth, whether the trees in that vicinity generally are less than eight inches in diameter, and all other facts necessary to be known to enable this office to determine whether the cutting was that of *mature* trees of less than the required size, or of the largest trees obtainable in that locality even if less than eight inches in diameter, or whether it was a case of wanton and wasteful destruction of the public timber.

24. Locators of mining claims, so long as they comply with the law governing their possessions, are invested by Congress with the exclusive right of possession and enjoyment of all the surface included within the lines of their locations. If a locator neglects to protect himself and his possessions, the law does not assume that the United States is injured by the cutting and use of the timber on such claim. It is the duty of the possessor to care for his own if trespass be attempted by a stranger; he alone is concerned for its protection, and may undoubtedly maintain suit to that end. (Secretary's decision, September 30, 1882.)

#### MILITARY, NAVAL, INDIAN, AND OTHER GOVERNMENT RESERVATIONS.

25. The timber upon military, naval, Indian, and other Government reservations is the property of the United States, and no person has the right to fell or remove the same unless employed by the Government for that purpose. Therefore, any timber trespass discovered upon such reservations must be reported to this office (in the same manner as trespass upon vacant public land) for reference to the proper Department.

#### RIGHT OF RAILROAD COMPANIES TO TAKE TIMBER FROM VACANT PUBLIC LANDS.

26. All *land-grant* railroads are authorized, in the granting act, to take timber from the public land adjacent thereto, for construction purposes. This authority, however, is confined strictly to timber for construction purposes *only*, in every grant except that to the Denver and Rio Grande Railroad, which authorizes said road to take timber for repairs also.

27. All *right-of-way* railroads are authorized to take timber from the public lands adjacent to the line thereof, for construction purposes

only, under act of March 3, 1875 (Supplement to the Revised Statutes, chapter 152), as follows:

AN ACT granting to railroads the right of way through the public lands of the United States.

*Be it enacted, &c.* \* \* \*

SECTION 1. That the right of way through the public lands of the United States is hereby granted to any railroad company duly organized under the laws of any State or Territory, except the District of Columbia, or by the Congress of the United States, which shall have filed with the Secretary of the Interior a copy of its articles of incorporation; and due proofs of its organization under the same, to the extent of one hundred feet on each side of the central line of said road; also the right to take, from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad.

\* \* \* \* \*

SEC. 4. That any railroad company desiring to secure the benefits of this act shall, within twelve months after the location of any section of twenty miles of its road, if the same be upon surveyed lands, and if upon unsurveyed lands, within twelve months after the survey thereof by the United States, file with the register of the land office for the district where such land is located a profile of its road; and upon approval thereof by the Secretary of the Interior, the same shall be noted upon the plats in said office; and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within five years after the location of said section, the rights herein granted shall be forfeited as to any such uncompleted section of said road.

SEC. 5. That this act shall not apply to any lands within the limits of any military park, or Indian reservation, or other lands especially reserved from sale, unless such right of way shall be provided for by treaty stipulation or by act of Congress heretofore passed.

SEC. 6. That Congress hereby reserves the right at any time to alter, amend, or repeal this act, or any part thereof.

28. Circulars of instructions relative to the construction to be placed upon the preceding act have been issued by this office under dates of July 15, 1881 (approved July 19, 1881), June 30, 1882 (approved July 1, 1882), July 22, 1882, and March 3, 1883 (approved March 5, 1883). None of said circulars are now in force except the last, which is as follows:

The first section of the act of Congress, approved March 3, 1875 (18 Stat., p. 482), granting to railroads the right of way through the public lands of the United States, provides that any railroad company organized as therein described shall have "the right to take from the public lands adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad."

In determining the rights of railroad companies under the foregoing provision you will be governed by the following instructions:

1. Said provision refers exclusively to contemplated or unconstructed roads. Companies have no right to take timber or other material under this act for *repairs*, fuel, or for the further improvement of roads *already constructed*.

2. The right granted to any railroad company under this act to take timber or other material from the public lands "adjacent to the line of said road" for construction purposes is construed to mean that, in procuring timber or other material for the purposes indicated in the act, the same must be obtained from the public lands in the neighborhood of the line of road being constructed, and within the terminal points of such road, if possible. If, however, it should be found that the material required in the construction of such road cannot be procured from the public lands in the neighborhood of, and within the terminal limits of, such road, then it is permitted that such company may obtain the material required outside the terminal limits of the road under construction; such material, however, to be taken from such points as are most accessible and nearest to the terminal limits thereof.

3. All duly organized railroad companies under this act, upon the filing and acceptance of properly authenticated copy of their articles of incorporation and organization, and map of definite line of location, are entitled (as provided in paragraph numbered 2 of this circular) to take timber from any of the public lands not otherwise reserved or previously occupied according to law, whether the same be mineral or non-mineral in character.

4. In the procurement of timber or other material for construction purposes, such company must, before causing the cutting or removal thereof, appoint in writing one or more persons as their duly authorized agent or agents for that purpose. Copies of all such

appointments must be filed in this office for its information, in order that such company may be held responsible for any violation of the rules and regulations as herein prescribed in relation to the cutting or removal of timber or other material from the public lands by such agent or those employed by or under him.

5. All such duly appointed agents have authority to employ others to procure from such public lands and deliver to them, for the use of such company, all material required for the purposes specified in the act. It is immaterial whether such persons are employed by the day or by the piece; but no authority can be given by such railroad company to the general public to cut timber from the public lands.

6. No railroad company organized according to the provisions of this act is entitled to procure, or cause to be procured, either by itself or through any of its agents, any timber or other material from the public lands for sale or other disposal either to other companies or to the general public.

7. The right to take timber from the public lands by such railroad company, or its agents, is confined to such timber or other material as is actually necessary in original construction of same, and ceases when such road is open to the public for general use.

8. In the procurement of such timber from the public lands, none less than eight inches in diameter is permitted to be cut or removed; no waste or destruction of timber is allowable, and the tops and laps of all trees must be cut and piled in order that the spread of forest fires may be checked thereby.

All rules and regulations or instructions heretofore prescribed under said act of March 3, 1875, by this Department, inconsistent with the provisions contained in this circular, are hereby rescinded.

29. There is no law authorizing individuals to cut timber from the public lands and sell the same to railroads at a certain price per tie, or per thousand feet, or under contract, even though it may be used for construction purposes. The right is conferred only upon the railroads themselves; therefore the person cutting such timber must be in the actual employ of the road or its agent.

30. The terms "lands adjacent to the line of the road" are indefinite, and cannot be confined to any prescribed limits. On this point the special timber agent must use his best judgment. As a rule such lands are deemed to be the nearest, most accessible, and available public lands within the terminal points of the road from which the road can procure suitable material; but Congress never intended to grant to any railroad superior rights to those of the settler; therefore, where a railroad passes through a sparsely timbered section of country, and the taking of timber from such lands would prevent or discourage settlement along the line of said road, or be a hardship to those who may have already settled in that locality, by depriving them of the necessary material for buildings, fences, fuel, &c., the railroad should be encouraged to take timber from other convenient, heavily timbered, and thinly settled sections of country adjacent to the line of said road.

31. By the granting acts, and by the act of March 3, 1875, the right to take timber is limited to *construction* purposes exclusively (except in case of the Denver and Rio Grande Railroad); therefore when a road is once completed the privilege ceases, and after that any cutting of timber by the railroad is a trespass.

32. The portion of office circular of September 19, 1882 (approved September 21, 1882), directing that the tops and brush of trees be cut up and piled in order to prevent the spread of fires (see page 30), applies also to the cutting and removal of timber from the public lands for the construction of railroads.

#### WHAT CONSTITUTES A TIMBER TRESPASS.

33. Any person who fells or removes timber, or who hires others to fell or remove timber, or who incites or induces others to fell or remove timber from Government land, for his personal benefit or advantage, or

for the purpose of speculation and gain (except he has the right or permission so to do as specified under heads of "Lands covered by homestead or pre-emption entry," "Right of railroad companies," and "Mineral lands"), is a timber trespasser upon Government land.

34. Any person who is authorized by law, or permitted, to fell and remove timber from Government land, who fails to utilize all of the trees cut that can possibly be used, or to remove the brush and take every reasonable precaution to prevent the spread of forest fires; or who, in any other particular wastes and destroys the public timber, is guilty of timber trespass upon Government land.

35. Any person who commits timber trespass upon Government land is liable to both criminal prosecution and civil suit; criminal prosecution for the act of trespass, and civil suit for the value of the material taken and the damages sustained, together with costs of court, and also the cost of survey and scalcement when the same shall be necessary to accurately determine the extent of trespass and the amount of damages. (See circular of March 1, 1883, pages 31 and 32.)

36. The person or persons who contract for, purchase, or receive said timber are also liable to civil suit for the value thereof and the damages sustained, together with costs as above. (See circular of March 1, 1883, pages 31 and 32.)

37. Timber unlawfully cut from Government land is the property of the United States, and is subject to seizure as such, wherever or in whatever condition it may be found, and from any party having possession of it, or who in any way lays claim to it.

38. Cut timber is not a part of the realty and does not go with the land; it is personal property and the value of the same can be sued for after the land has been parted with by the Government.

39. The value of such timber in a civil suit is the value of the timber, or lumber, at the place where and in the condition when found. (See decision No. 5, Appendix, page 29; also circular of March 1, 1883, pages 31 and 32.)

40. Criminal actions are barred by the statute of limitation after the lapse of three years; but there is no limitation as to time when the Government may bring civil action for the value of the property and damages.

#### DUTIES OF A SPECIAL TIMBER AGENT.

41. Special timber agents are assigned to duty in certain States or districts, wherein they will have a general supervision and charge over all timber upon Government land.

42. It is their duty to keep themselves thoroughly informed as to the condition of the timber upon the Government land in their respective districts, and to protect and preserve said timber from waste and destruction from any and all sources. (See office circular of September 19, 1882, approved September 21, 1882, relative to forest fires, &c., page 30.)

43. In enforcing a compliance with the several laws relative to the protection and preservation of the public timber, and the rules and regulations prescribed thereunder by this Department, much must necessarily be left to the discretion and judgment of special timber agents; as the evidence of violations of said laws, or of the rules and regulations, is in nearly every instance a question of fact which can only be ascertained by personal examination and investigation.

44. Special timber agents should remember that it is not the purpose of the law, nor of the regulations of this Department, to prohibit the



use of so much of the public timber as may be actually needed by *bona fide* settlers for agricultural and domestic purposes, but to prevent its being made an article of speculation for the pecuniary gain of a few individuals to the detriment of the many, or from being wantonly wasted or destroyed. When an agent understands this, and convinces the people in the district to which he is assigned that such is the case, he will find no difficulty in securing their active support and co-operation.

45. Whenever you have information that any timber has been unlawfully felled or removed from Government land, you should visit the ground and investigate said alleged trespass in person, in order to be able to report the case from personal knowledge and observation.

46. You should ascertain the character of the land from which the timber has been felled or removed, whether it is vacant, unoccupied public land, or covered by homestead, pre-emption, or other entry; whether it is within the limits of the grant to any railroad, or of any Government reservation; and whether it is mineral or non-mineral.

47. The purpose of the Government is to prevent the unlawful taking of timber from all Government lands until the title to such lands has actually passed from the United States.

48. Many claims and entries are made upon Government land which from one cause or another are never consummated, and the land finally reverts to the Government. It is therefore fully as important to preserve the timber upon such lands from unlawful spoliation as it is on vacant public lands upon which there never has been any claim.

49. Having ascertained the character of the land, and that it is such as should be protected from timber trespass, you should next ascertain who committed the trespass.

50. It is not the object of the Government to persecute poor wood-choppers, or cutters who are employed or induced to fell or remove the timber for others who are to reap the profits therefrom; but to punish the principals therein, or the parties to be directly benefited in the case, they being the more guilty parties.

51. Care should be taken to ascertain whether the alleged trespasser has any right or authority to take such timber, as specified under heads of "Homestead or pre-emption entry," "Right of railroad companies, &c.," and "Mineral lands," pages 6 to 11.)

52. Having ascertained the above facts and become satisfied that the person is *unlawfully* felling or removing timber from the Government land, you should next find good and reliable witnesses to establish all the facts necessary to a successful prosecution of the person committing the trespass.

53. Having all the facts in your possession you should, *at once*, fill out a form of report (in duplicate) and transmit the same to this office, being particular to state the facts in full under each head, and in accordance with instructions given under the head of "Manner of making reports of timber trespass."

54. It is imperative that all names shall be given in full, written plainly, and *spelled correctly*. An important suit might be lost through neglect of the agent in this particular.

#### MANNER OF MAKING REPORT OF TRESPASS.

55. It is impossible to prescribe a form of report which will call for only the information needed in each particular case; therefore the form

prescribed calls for *all* the information that it is thought can be needed in *any* case.

56. It is the duty of the special timber agent to follow the form of report closely in every case, and to give *all* the information called for under each head, where practicable; and where not practicable, to state the reason therefor.

(1.) State name of trespasser *in full*, with post office address and residence; where the trespass is committed by a firm, state firm name and post office address; also name in full, post office address, and residence of each member of the firm. Where by an organized company or corporation, state name of company and location of home office; also name in full, post office address, and residence of each officer, and of the manager or local superintendent.

(2.) Describe the land trespassed upon.

If surveyed, state subdivision of section, section, township, and range.

If unsurveyed, define the locality by streams and other natural objects, distance, and direction from nearest surveyed lands, cities, towns, etc.

(3.) Describe the character of the land, whether vacant public land or covered by homestead, pre-emption, or other entry; whether mineral or non-mineral land; whether within railroad limits or Government reservation.

If the land is vacant public land, no further description as to character is necessary.

If the land is covered by homestead, pre-emption, or other entry, state the kind of entry, and, under the diagram on second page of report, give the following information in the order named: 1. Name of person making entry. 2. Date of entry. 3. Whether the party permanently resides on the place. 4. Whether he has any family. 5. Nature of improvements (if any) and whether permanent or temporary. 6. Estimated value of improvements. 7. If any of the ground is cleared or cultivated, state how much and to what extent. 8. Any other information which will tend to show whether the person made entry in good faith or for the purpose of cutting the timber therefrom and abandoning same.

If the land trespassed upon is within a mineral district, the report must be accompanied by affidavits as to the mineral or non-mineral character of the land (see Forms 11 and 12, page 36). Affidavits from two responsible persons are required in each case; and if the trespass was on mineral lands the following information must be stated under the diagram on second page of report, viz: Whether the trespass consisted in cutting trees less than 8 inches in diameter, in wanton waste and destruction of the public timber, or whether any of the timber or lumber was exported or cut for export from the State or Territory where the cutting was done. (See "Mineral lands" pages 7 to 9.)

If the timber was cut or removed from *indisputably* mineral lands, and none of the provisions relative to the cutting thereon have been violated (see "Mineral lands," pages 7 to 9), no report whatever in the case is necessary.

If the land trespassed upon is within railroad limits, state, under diagram on second page of report, the name of the railroad; and the distance of the land from the line of the road.

(4.) Give the date or dates upon which the timber was cut, and the date or dates upon which it was removed.

(5.) State whether the trespass consisted in only cutting the timber, or in cutting and removing the same; or in removing the same after it had been cut by other (unknown) parties.

(6.) State kind of timber; whether pine, oak, or other wood. (See circular relative to mesquite, approved October 12, 1882, page 31.)

(7.) State number of each kind of trees cut or removed.

(8.) State number of feet, board measure, or number of railroad ties, cords of wood, poles, posts, or other material into which the timber may have been manufactured.

(9.) Describe log mark or marks, and state the name of the person who uses such mark to represent his property, giving post office address and residence.

(10.) State where the timber is; whether on the ground where cut, or hauled to any stream or shipping point, giving the name of same; whether in boom, or at mill, or removed and disposed of; and if removed or disposed of, state the use made of the same.

(11.) State value of the timber or lumber in each of the conditions specified in form of report, as nearly as practicable.

(12.) Give the name, post office address, and residence of the claimant of said timber or lumber, or the person having possession of the same.

(13.) If the cutting was done under contract, state contract price, and where the timber was to be delivered; whether any money has been paid or advanced on same; and give names in full, post office address, and residence of contracting parties.

(14.) If the timber has been sold, give name, post office address, and residence of party to whom sold; state price given or agreed upon; amount paid; where and in what condition the timber is to be delivered; number of logs or amount of timber delivered, if any; whether the purchaser had knowledge that the timber was unlawfully cut, or to be cut, from public lands, or took reasonable precaution to ascertain that fact and was an innocent purchaser through misrepresentation on the part of others of generally good reputation.

(15.) Give names in full of at least two reputable witnesses, giving post office address and residence of each, or where he may be found. State in brief what each witness will be able to testify to in court, being particular to state the date or dates upon which he saw the cutting or removing. (The cutters and haulers, or other employés of the trespasser should be used as witnesses whenever available.)

(16.) Give a brief statement of what facts you can testify to from your own knowledge and observation, being particular to state date or dates when you visited the ground and made personal examination.

(17.) State whether the trespass was willful, and whether there are any extenuating or mitigating circumstances; and, if so, the nature and evidence thereof.

(18.) State whether any legal proceedings have been instituted against the parties for the trespass in question.

(19.) State whether the parties are financially responsible; and, if so, to what amount.

(20.) State what action in the premises, in your judgment, will be for the best interest of the Government.

(21.) State any other facts which you may deem necessary for a clear comprehension of the case in all its details.

(22.) Fill up the diagram on second page of form of report; showing streams, roads, location of cutting, and buildings upon the land trespassed upon.

## PROPOSITIONS OF SETTLEMENT.

57. After you have ascertained all the facts in the case and prepared your report for transmission to this office, should the party to the trespass (either the actual trespasser or the purchaser of the timber, or both) express a desire to avoid litigation and to compromise by paying the Government a certain price in settlement for said trespass or timber, if the evidence indicates that the trespass was not willful, but accidental or unintentional, or if there are other extenuating circumstances, you may inform the trespasser that, if he will make a sworn statement and proposition of settlement, in accordance with the terms of the circular of March 1, 1883, and in the form prescribed by this office (see Form 10, page 35), you will transmit the same with your report to this office for consideration and action.

58. The party who cut the timber, or caused it to be cut, may make proposition of compromise (if the circumstances in the case warrant it, as set forth above in paragraph 57) for the purpose of relieving himself from criminal prosecution, but the acceptance of such proposition will not relieve the purchaser of the timber from civil proceedings unless the amount offered not only covers the damage to the land but also the value of the timber.

59. The purchaser of the timber may make a proposition of settlement (if the circumstances in the case will warrant it, as above set forth in paragraph 57) for the purpose of avoiding civil proceedings, but the acceptance of such proposition will not relieve the party who cut the timber, or caused it to be cut, from criminal prosecution.

60. Where there is positive proof that the person who cut the timber, or caused it to be cut, is a willful and malicious or persistent trespasser upon the public timber, a proposition for the purpose of avoiding criminal prosecution should not be entertained.

61. Where the purchaser of the timber had a knowledge at the time of purchase that the timber was unlawfully cut from public land, proposition of settlement should not be entertained for the purpose of relieving the parties from civil proceedings, unless the amount offered in said proposition is for the full value of the material in the condition when and position where found, or if sold, for the amount for which it was sold; and for at least as much as there is a reasonable prospect of being able to recover through legal proceedings, with costs.

62. The acceptance of propositions at a lower rate than the owners of private lands in the same vicinity would charge for similar timber, or for the privilege of cutting the same, would be an actual inducement to parties to commit timber depredations upon the public lands; therefore, such propositions should never be entertained, except when there is indisputable and positive proof that the person who cut the timber, or who purchased the same, was absolutely innocent of any guilty intent or knowledge that the same was cut from Government land; in which case propositions may be made to pay "stumpage" for the damage sustained—that is, the value of the timber when standing.

63. No fixed and uniform rate of stumpage can be prescribed by the Department. The actual value of the standing timber at the place where and the time when it was cut, together with the other facts and circumstances ascertained by the agent, must govern in each case as to such rate.

64. In all cases where an offer of compromise or settlement is made, if there has been any expense to the Government for surveying, or

scaling, or watching and caring for the property, the amount must be included in and made part of the proposition.

65. Sworn statements and propositions of settlement must be made out in accordance with the form prescribed by this office (see Form 10, page 35). The person who subscribes and swears to the statement and proposition in stating the extenuating circumstances must state his case in his own way and not from dictation by the special timber agent.

66. Special timber agents are not authorized or permitted under any circumstances to decide upon any proposed compromise, or to accept any offer of settlement, or to receive any money or other valuable consideration as a deposit pending its consideration by this office, or to receive the money after a proposition has been accepted by this office.

67. All payments in settlement of propositions for timber trespass must be made to the receiver of public moneys for the land district in which the trespass was committed.

68. Where cases are in suit, propositions must be made through the proper United States district attorney to the Department of Justice.

#### VOLUNTARY RELEASE OF TIMBER OR LUMBER.

69. Should an innocent trespasser, purchaser, or party having possession of any timber or lumber cut from Government land, voluntarily offer to deliver the same to the Government, you may receive a sworn statement and release from said party, in accordance with the form prescribed by this office (see Form No. 9, page 35), take possession of the property, and transmit said release, together with a full report in the case to this office according to form of trespass report (see Form 8, page 35), upon receipt of which you will be instructed as to what disposition to make of the property.

70. If you are satisfied that the party offering to release the timber or lumber became possessed of the same with a full knowledge that it was unlawfully cut from Government land, and that his offer to release the same is made solely to avoid the legal punishment and penalties for his unlawful acts, or if the timber is in such a position that no disposition can be made of it by the Government except to dispose of it to the guilty party upon his own terms, you will refuse to accept a release for said timber, but will at once report the case in full, in order that legal proceedings may be instituted. Any other course would be an encouragement to continued depredations.

#### SEIZURE OF TIMBER OR LUMBER.

71. No seizure of timber or lumber can be made except by due process of law. The appointment of a special timber agent does not confer upon him any power or authority to seize timber or lumber by virtue of his office. However, should you at any time find any timber that has been cut upon Government land, and abandoned by the party who cut the same, you will take possession of said timber, and at once notify this office, when you will be instructed as to what disposition to make of it.

#### CASES OF EMERGENCY.

72. In case of emergency, where the offender is about to leave the country, or the property is being removed or concealed and the evidence of the trespass destroyed, so that immediate action is absolutely

necessary to protect the interests of the Government, the special timber agent may apply to the United States attorney for the district in which the trespass was committed to institute the proper legal proceedings.

73. In such cases however, the responsibility will rest with the special timber agent to produce clear and indisputable evidence to establish the trespass, and show the necessity for his action.

74. In all other cases the trespass must first be reported in full to this office for instructions.

#### PREVENTION OF TRESPASS.

75. It is as much a part of your duty to prevent parties from committing timber trespass upon Government land as to detect and secure the punishment of such trespass after it has been committed. Therefore, should you receive information that any person or persons premeditates such trespass, you must acquaint them with the law upon the subject, and warn them against such unlawful acts.

#### RECORD OF CASES INVESTIGATED.

76. You must keep a record of *every* case investigated by you and reported to this office (a blank record book for which purpose will be furnished you), showing every action taken in each case until it is finally disposed of and settled; and, within thirty days after the 1st day of January and July, in each year, you must transmit to this office a transcript from said record book showing the exact status of each and every case recorded therein.

This is a most important part of your duty and must be strictly adhered to, in order that every case may be promptly disposed of, and that none may go by default on account of neglect on the part of this office or its agents; and also that you may be able to report at once to this office the exact status of any case when called upon.

#### WEEKLY REPORTS.

77. You are required to furnish this office, each week, with a report giving a brief statement of your official acts each day of the week. (See Form 2, Appendix, page 33).

78. Such weekly reports are necessary to the prompt adjustment of your accounts, and no allowance will be made in any instance for time not so reported upon.

79. In making out such reports state each day, in the proper column the day of the month, the day of the week, and the name of the place at which you are stopping or which you visit.

80. Under the head of nature of business, state the time of departure from and arrival at each place visited, the object of the visit, and a brief statement as to the *nature* of the business transacted.

81. After every statement of a journey made in which a transportation order is used put the initials T. O., give the number of the order used, and the initials of the route over which you traveled.

82. Such terms as "attending to official business;" "engaged in office work;" "writing official communications," &c., are not sufficiently specific, and will not be accepted by this office. You must state the nature of the official business or office work or the names of parties written to, and when investigating cases of trespass give the names of



the alleged trespassers or parties interviewed or description of land examined.

83. You must make a special and full report in each case investigated, at an early day thereafter.

84. Information which is to be a matter of record in any pending trespass case must not be furnished in weekly reports, but must be made the subject of a separate report.

85. A failure to comply with any of the above instructions will necessitate the return of your weekly reports for correction and subject your monthly account to suspension.

#### EXPENSES OF SPECIAL TIMBER AGENTS.

86. In addition to your salary you will be allowed the actual and necessary expenses incurred by you while attending to your official duties.

87. Office circular of June 20, 1882 (copy herewith), will furnish you with full information as to what constitutes your actual and necessary expenses, and how to make out and transmit your monthly accounts for settlement.

88. Letters transmitting monthly accounts must relate solely to said accounts.

89. You are especially instructed not to incur any indebtedness in surveying land and scaling timber, or for any other purpose, beyond your salary and personal expenses, without special instructions from this office in each case.

#### TRANSPORTATION ORDERS.

90. You will be furnished, for your official use, with a supply of railroad transportation orders, with stubs attached.

91. In traveling, *in every case* use a transportation order where the railroad company will accept the same and furnish transportation in accordance therewith, using the orders in their numerical order.

92. In cases where the officials of any railroad company refuse to accept said orders or furnish transportation thereupon you will purchase a ticket, taking a stamped receipt therefor from the ticket agent, and transmit said receipt to this office with your monthly account; and in your letter of transmittal state the reasons assigned by the officers of the railroad company for refusing to accept of the transportation order. (Subsidized roads named in circular of June 20, 1882, are compelled by law to accept such transportation orders, and no charge by a special timber agent for fare on any of said roads will be allowed by this office.)

93. With each monthly account forward the stubs of all transportation orders used during the time covered by said account.

94. Never allow your supply of transportation orders to become exhausted; a failure to apply for a renewal of the same in time will not be excused, except in cases of an unavoidable contingency where reasons can be assigned satisfactory to this office.

95. In applying for a new supply of transportation orders in every instance state the number of orders you have on hand at the date of making such application.

96. Paragraph 27 of office circular of June 20, 1882 (copy herewith), relative to use of transportation orders is hereby rescinded.

## SPECIAL INSTRUCTIONS.

97. It is a waste of time for special timber agents to write long letters to this office stating that a number of persons are committing depredations upon Government timber, neglecting to furnish particulars. No intelligent action can be taken in any case, by this office, unless all the information called for in the form of report is furnished.

98. Your services will not be valued by the length or number of your communications, but by their utility.

99. Every case of trespass must be made the subject of a report separate and distinct in itself.

100. Important facts in any case which has been previously reported must be made the subject of a separate communication.

101. All reports of trespass, sworn statements, and propositions of settlement, all releases and affidavits, and all papers requiring official action by this office (except monthly accounts and weekly reports), must be transmitted in duplicate. You should also keep a copy of each paper for your own information.

102. Should you at any time need legal advice relative to the laws concerning timber depredations, you will consult with the United States attorney for the State or Territory assigned you.

103. Should you require diagrams of township plats to enable you to locate a trespass, you will apply to the register and receiver of the land district in which the land is situated, who will furnish them to you without charge.

104. These diagrams should show the tracts which are vacant public lands, and those upon which there are homestead, pre-emption, or other entries.

105. When you are assigned to duty, some certain city or town in the district over which you are put in charge, centrally located, will be designated as your headquarters, for the purpose of having some specified place as your post office address, where communications from this office may be mailed you.

106. When you expect to be absent from the vicinity of your headquarters for any length of time, you will leave directions with the postmaster where to forward your mail.

107. It is not expected that you will permanently reside at the place designated as your headquarters, or that you will remain there continuously; you cannot in that way become an efficient or valuable special timber agent.

108. To familiarize yourself with the timber business of your district, and at the same time to ascertain what action can be taken to prevent the waste and destruction of public timber and to preserve it for legitimate uses, it is necessary for you to visit the timber lands of your district and acquire such knowledge by personal observation.

109. A special timber agent who feels an interest in the good of the public service and the special duties devolved upon him will, during the greater portion of the time, be in the field.

110. You will be furnished by this office, for your official use, with a supply of stationery and the following blank forms, viz: oath of office; weekly reports; vouchers for board and lodging, special transportation, and miscellaneous expenditures; railroad transportation orders; physician's certificate; report of timber trespass; release of timber or lumber; propositions for settlement; affidavits as to mineral character of land and affidavits as to non-mineral character of land. (See Forms 1 to 12, Appendix, pages 33 to 36.)

## APPENDIX.

### *LAWS RELATIVE TO THE PRESERVATION OF GOVERNMENT TIMBER.*

#### LIVE-OAK AND RED CEDAR TIMBER.

[Revised Statutes of the United States.]

SEC. 2460. The President is authorized to employ so much of the land and naval forces of the United States as may be necessary effectually to prevent the felling, cutting down, or other destruction of the timber of the United States, in Florida, and to prevent the transportation or carrying away any such timber as may be already felled or cut down; and to take such other and further measures as may be deemed advisable for the preservation of the timber of the United States in Florida.

SEC. 2461. If any person shall cut, or cause or procure to be cut, or aid, assist, or be employed in cutting, or shall wantonly destroy, or cause or procure to be wantonly destroyed, or aid, assist, or be employed in wantonly destroying any live-oak or red cedar trees or other timber standing, growing, or being on any lands of the United States which in pursuance of any law passed, or hereafter to be passed, have been reserved or purchased for the use of the United States, for supplying or furnishing therefrom timber for the Navy of the United States; or if any person shall remove, or cause, or procure to be removed, or aid, or assist, or be employed in removing from any such lands which have been reserved or purchased, any live-oak or red cedar trees, or other timber, unless duly authorized so to do, by order, in writing, of a competent officer, and for the use of the Navy of the United States, or if any person shall cut, or cause or procure to be cut, or aid, or assist, or be employed in cutting any live-oak or red cedar trees, or other timber on, or shall remove, or cause or procure to be removed, or aid or assist, or be employed in removing any live-oak or red cedar trees or other timber, from any other lands of the United States, acquired, or hereafter to be acquired, with intent to export, dispose of, use, or employ the same in any manner whatsoever, other than for the use of the Navy of the United States, every such person shall pay a fine not less than triple the value of the trees or timber so cut, destroyed, or removed, and shall be imprisoned not exceeding twelve months. (See 4751.)

SEC. 2462. If the master, owner, or consignee of any vessel shall knowingly take on board any timber cut on lands which have been reserved or purchased as in the preceding section prescribed, without proper authority, and for the use of the Navy of the United States; or shall take on board any live-oak or red cedar timber cut on any other lands of the United States, with intent to transport the same to any port or place within the United States; or to export the same to any foreign country, the vessel on board of which the same shall be taken, transported or seized, shall, with her tackle, apparel, and furniture, be wholly forfeited to the United States, and the captain or master of such vessel wherein the same was exported to any foreign country against the provisions of this section shall forfeit and pay to the United States a sum not exceeding one thousand dollars. (See 4751.)

SEC. 2463. It shall be the duty of all collectors of the customs within the States of Alabama, Mississippi, Louisiana, and Florida, before allowing a clearance to any vessel laden in whole or in part with live-oak timber, to ascertain satisfactorily that such timber was cut from private lands, or, if from public ones, by consent of the Navy Department. And it is also made the duty of all officers of the customs, and of the land officers within those States to cause prosecutions to be seasonably instituted against all persons known to be guilty of depredations on, or injuries to, the live-oak growing on public lands. (See 4205, 4751.)

SEC. 4205. Collectors of the collection districts within the States of Florida, Alabama, Mississippi, and Louisiana, before allowing a clearance to any vessel laden in whole or in part with live-oak timber, shall ascertain satisfactorily that such timber was cut from private lands, or, if from public lands, by consent of the Department of the Navy. (See 2463.)

SEC. 4751. All penalties and forfeitures incurred under the provisions of sections twenty-four hundred and sixty-three, Title "The Public Lands," shall be sued for, recovered, distributed, and accounted for, under the directions of the Secretary of the Navy, and shall be paid over, one-half to the informers, if any, or captors, where seized, and the other half to the Secretary of the Navy for the use of the Navy pension fund; and the Secretary is authorized to mitigate, in whole or in part, on such terms and conditions as he deems proper, by an order in writing, any fine, penalty, or forfeiture so incurred.

#### DEPREDACTIONS ON TIMBER LANDS.

SEC. 5388. Every person who unlawfully cuts, or aids or is employed in unlawfully cutting, or wantonly destroys, or procures to be wantonly destroyed, any timber standing upon lands of the United States which in pursuance of law may be reserved or purchased for military or other purposes, shall pay a fine of not more than five hundred dollars and be imprisoned not more than twelve months. (See 2460-2463.)

#### PROTECTION OF ORNAMENTAL AND OTHER TREES ON GOVERNMENT RESERVATIONS.

[Chapter 151, Supplement to the Revised Statutes.]

*Be it enacted, &c.* \* \* \*

SECTION 1. That if any person or persons shall knowingly and unlawfully cut, or shall knowingly aid, assist or be employed in unlawfully cutting, or shall wantonly destroy or injure, or procure to be wantonly destroyed or injured, any timber-tree or any shade or ornamental tree, or any other kind of tree, standing, growing, or being upon any land of the United States, which, in pursuance of law, have been reserved, or which have been purchased by the United States for any public use, every such person or persons so offending, on conviction thereof before any circuit or district court of the United States, shall, for every such offense, pay a fine not exceeding five hundred dollars, or shall be imprisoned not exceeding twelve months.

SEC. 2. That if any person or persons shall knowingly and unlawfully break, open, or destroy any gate, fence, hedge, or wall inclosing any lands of the United States, which have, in pursuance of any law, been reserved or purchased by the United States for any public use, every such person so offending, on conviction, shall, for every such offense, pay a fine not exceeding two hundred dollars, or be imprisoned not exceeding six months.

SEC. 3. That if any person or persons shall knowingly and unlawfully break, open, or destroy any gate, fence, hedge, or wall inclosing any lands of the United States, reserved or purchased as aforesaid, and shall drive any cattle, horses, or hogs upon the lands aforesaid for the purpose of destroying the grass or trees on the said grounds, or where they may destroy the said grass or trees, or if any such person or persons shall knowingly permit his or their cattle, horses or hogs to enter through any of said inclosures upon the lands of the United States aforesaid where the said cattle, horses or hogs may or can destroy the grass or trees or other property of the United States on the said land, every such person or persons so offending, on conviction, shall pay a fine not exceeding five hundred dollars, or be imprisoned not exceeding twelve months: *Provided*, That nothing in this act shall be construed to apply to unsurveyed public lands, and to public lands subject to pre-emption and homestead laws; or to public lands subject to an act to promote the development of the mining resources of the United States, approved May tenth, eighteen hundred and seventy-two. (March 3, 1875.)

#### TIMBER LANDS IN THE STATES OF CALIFORNIA, OREGON, NEVADA, AND IN WASHINGTON TERRITORY.

[Chapter 151; approved June 3, 1878 (20 Stat., 89).]

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled*, That surveyed public lands of the United States within the States of California, Oregon, and Nevada, and in Washington Territory, not included within military, Indian, or other reservations of the United States, valuable chiefly for timber, but unfit for cultivation, and which have not been offered at public sale according to law, may be sold to citizens of the United States, or persons who have declared their intention to become such, in quantities not exceeding one hundred and sixty acres to any one person or association of persons, at the minimum price of two dollars and fifty cents per acre; and lands valuable chiefly for stone may be sold on the same terms as timber lands: *Provided*, That nothing herein contained shall defeat or impair any *bona fide* claim under any law of the United States, or authorize the sale of any mining claim, or the improve-

ments of any *bona fide* settler, or lands containing gold, silver, cinnabar, copper, or coal, or lands selected by the said States under any law of the United States donating lands for internal improvements, education, or other purposes: *And provided further*, That none of the rights conferred by the act approved July twenty-sixth, eighteen hundred and sixty-six, entitled "An act granting the right of way to ditch and canal owners over the public lands, and for other purposes," shall be abrogated by this act; and all patents granted shall be subject to any vested and accrued water rights, or rights to ditches and reservoirs used in connection with such water rights, as may have been acquired under and by the provisions of said act; and such rights shall be expressly reserved in any patent issued under this act.

SEC. 2. That any person desiring to avail himself of the provisions of this act shall file with the register of the proper district a written statement in duplicate, one of which is to be transmitted to the General Land Office, designating by legal subdivisions the particular tract of land he desires to purchase, setting forth that the same is unfit for cultivation, and valuable chiefly for its timber or stone; that it is uninhabited; contains no mining or other improvements, except for ditch or canal purposes, where any such do exist, save such as were made by or belong to the applicant, nor, as deponent verily believes, any valuable deposit of gold, silver, cinnabar, copper, or coal; that deponent has made no other application under this act; that he does not apply to purchase the same on speculation, but in good faith to appropriate it to his own exclusive use and benefit; and that he has not, directly or indirectly, made any agreement or contract, in any way or manner, with any person or persons whomsoever, by which the title which he might acquire from the Government of the United States should inure, in whole or in part, to the benefit of any person except himself; which statement must be verified by the oath of the applicant before the register or the receiver of the land office within the district where the land is situated; and if any person taking such oath shall swear falsely in the premises, he shall be subject to all the pains and penalties of perjury, and shall forfeit the money which he may have paid for said lands, and all right and title to the same; and any grant or conveyance which he may have made, except in the hands of *bona fide* purchasers, shall be null and void.

SEC. 3. That upon the filing of said statement, as provided in the second section of this act, the register of the land office shall post a notice of such application, embracing a description of the land by legal subdivisions, in his office, for a period of sixty days, and shall furnish the applicant a copy of the same for publication, at the expense of such applicant, in a newspaper published nearest the location of the premises, for a like period of time; and after the expiration of said sixty days, if no adverse claim shall have been filed, the person desiring to purchase shall furnish to the register of the land office satisfactory evidence, first, that said notice of the application prepared by the register as aforesaid was duly published in a newspaper as herein required; secondly, that the land is of the character contemplated in this act, unoccupied and without improvements, other than those excepted, either mining or agricultural, and that it apparently contains no valuable deposits of gold, silver, cinnabar, copper, or coal; and upon payment to the proper officer of the purchase-money of said land, together with the fees of the register and the receiver, as provided for in case of mining claims in the twelfth section of the act approved May tenth, eighteen hundred and seventy-two, the applicant may be permitted to enter said tract, and, on the transmission to the General Land Office of the papers and testimony in the case, a patent shall issue thereon: *Provided*, That any person having a valid claim to any portion of the land may object, in writing, to the issuance of a patent to lands so held by him, stating the nature of his claim thereto; and evidence shall be taken, and the merits of said objection shall be determined by the officers of the land office, subject to appeal, as in other land cases. Effect shall be given to the foregoing provisions of this act by regulations to be prescribed by the Commissioner of the General Land Office.

SEC. 4. That after the passage of this act it shall be unlawful to cut, or cause or procure to be cut, or wantonly destroy, any timber growing on any lands of the United States, in said States and Territory, or remove, or cause to be removed, any timber from said public lands, with intent to export or dispose of the same; and no owner, master, or consignee of any vessel, or owner, director, or agent of any railroad, shall knowingly transport the same, or any lumber manufactured therefrom; and any person violating the provisions of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined for every such offense a sum not less than one hundred nor more than one thousand dollars: *Provided*, That nothing herein contained shall prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or preparing his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States; and the penalties herein provided shall not take effect until ninety days after the passage of this act.

SEC. 5. That any person prosecuted in said States and Territory for violating section

two thousand four hundred and sixty-one of the Revised Statutes of the United States who is not prosecuted for cutting timber for export from the United States, may be relieved from further prosecution and liability therefor upon payment, into the court wherein said action is pending, of the sum of two dollars and fifty cents per acre for all lands on which he shall have cut or caused to be cut timber, or removed or caused to be removed the same: *Provided*, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment; but he shall have the right to purchase the same upon the same terms and conditions as other persons, as provided hereinbefore in this act: *And further provided*, That all moneys collected under this act shall be covered into the Treasury of the United States. And section four thousand seven hundred and fifty-one of the Revised Statutes is hereby repealed, so far as it relates to the States and Territory herein named.

SEC. 6. That all acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

The following circular of instructions relative to the preceding act has been issued by this office:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., August 15, 1878.

*To Registers and Receivers of United States Land Offices:*

GENTLEMEN: The following is a review of the provisions of the act entitled "An Act for the sale of timber lands in the States of California, Oregon, Nevada, and in Washington Territory," approved June 3, 1878, and of the act approved same date, entitled "An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes," so far as they relate to the privilege of cutting and removing timber from the public lands of the United States, the punishment therefor, or to the protection of "timber and of the undergrowth" growing upon the public lands. Copies of these acts are annexed.

The fourth section of the first mentioned act provides that "it shall be unlawful to cut, or cause or procure to be cut, or wantonly destroy, any timber growing on any lands of the United States, in said States and Territory, or remove, or cause to be removed, any timber from said public lands, with intent to export or dispose of the same; and no owner, master or consignee of any vessel, or owner, director, or agent of any railroad, shall knowingly transport the same, or any lumber manufactured therefrom. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, on conviction, shall be fined for every such offense a sum not less than one hundred nor more than one thousand dollars." Provision is also embraced in said section that "the penalties herein provided shall not take effect until ninety days after the passage of this act." This section also contains a proviso, as follows: "And nothing herein contained shall prevent any miner or agriculturist from clearing his land in the ordinary working of his mining claim, or preparing his farm for tillage, or from taking the timber necessary to support his improvements, or the taking of timber for the use of the United States." The penalty provided for in this section takes effect after the 1st day of September, 1878, and applies to cutting for any purpose other than that mentioned in this proviso, such as the wanton destruction of timber, or its removal for export or disposal.

In the States and Territory mentioned the effort of the Executive will in the future be directed to the proper punishment of parties who may cut for purposes not authorized by the statute under consideration, and to the prevention, so far as practicable, of further trespass against the general law.

The fifth section of the act provides "that any person prosecuted in said States and Territory for violating section 2461 of the Revised Statutes of the United States, who is not prosecuted for cutting timber for export from the United States, may be relieved from further prosecution and liability therefor upon payment, into the court wherein said action is pending, of the sum of two dollars and fifty cents (\$2.50) per acre for all lands on which he shall have cut or caused to be cut timber, or removed or caused to be removed the same: *Provided*, That nothing contained in this section shall be construed as granting to the person hereby relieved the title to said lands for said payment; but he shall have the right to purchase the same upon the same terms and conditions as other persons, as provided hereinbefore in this act." This provision is applicable alike to cases pending at the time of the passage of the act, and to such cases as have been since or may hereafter be commenced.

Section 5 also contains provision that all moneys collected under this act shall be covered into the Treasury of the United States, and section 4751 of the Revised Statutes of the United States, which authorizes the penalties and forfeitures incurred under sections



2461 and 2462 of the Revised Statutes, to be sued for, recovered and accounted for, under the direction of the Secretary of the Navy, is repealed, so far as it relates to these States and Territory.

By the provisions of the last-mentioned act "all citizens of the United States and other persons *bona fide* residents of the States of Colorado, Nevada, or either of the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, and Montana, and all other mineral districts of the United States, are authorized and permitted to fell and remove for building, agricultural, mining, or other domestic purposes, any timber or other trees growing or being upon the public lands, said lands being mineral and not subject to entry under the existing laws of the United States, except for mineral entry in either of said States, Territories, or districts of which such citizens may be at the time *bona fide* residents, subject to such rules and regulations as the Secretary of the Interior may prescribe for protection of the timber, and of the undergrowth growing upon such lands, and for other purposes."

The first section contains a provision that this act shall not extend to railroad corporations. A copy of the rules and regulations prescribed by the Secretary of the Interior, for the protection of the timber and of the undergrowth growing upon the mineral lands of the United States, in compliance with this provision, is printed herewith. The second section of this act makes it the duty of the register and receiver of any local land office in whose district any mineral land may be situated to ascertain from time to time whether any timber is being cut or used upon any of the mineral lands, except for the purposes authorized by this act, within their respective land districts; and if so, they are required to notify the Commissioner of the General Land Office of that fact.

These reports will be made by the registers and receivers separately from those relating to any other subject, and will give the details of any violation of the provisions of this act.

The registers and receivers are allowed all necessary expenses incurred in making such proper examinations in regard to violations of the provisions of this act, which will be paid and allowed them in making up their next quarterly accounts.

The third section provides that "any person or persons who shall violate the provisions of this act, or any rules and regulations in pursuance thereof made by the Secretary of the Interior, shall be deemed guilty of a misdemeanor, and upon conviction shall be fined in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months."

When violations of the provisions of this act are brought to the attention of this Office, either by report from the registers and receivers, or by other persons who, as good citizens, may feel an interest in the protection of the public timber, if the facts are deemed sufficient to warrant prosecutions, they will be brought to the attention of the Department of Justice, that instructions may be given to the proper District Attorney to institute legal proceedings.

#### RULES AND REGULATIONS PRESCRIBED BY THE SECRETARY OF THE INTERIOR FOR THE PROTECTION OF TIMBER, ETC.

Rules and regulations prescribed by the Secretary of the Interior for the protection of the timber and of the undergrowth growing upon mineral lands of the United States, not subject to entry under existing laws of the United States, except for mineral entry in the States of Colorado and Nevada, or in the Territories of New Mexico, Arizona, Utah, Wyoming, Dakota, Idaho, or Montana, and in all other mineral districts of the United States, in compliance with the provisions of an act approved June 3, 1878, entitled "An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes."

With the view to and the intention of preserving the young timber and undergrowth upon the mineral lands of the United States, and to the end that the mountain sides may not be left denuded and barren of the timber and undergrowth necessary to prevent the precipitation of the rain-fall and melting snows in floods upon the fertile arable lands in the valleys below, thus destroying the agricultural and pasturage interests of the mineral and mountainous portions of the country, I do hereby make and cause to be promulgated, by virtue of the power vested in me by the act entitled "An act authorizing the citizens of Colorado, Nevada, and the Territories (excepting Washington Territory) to fell and remove timber on the public domain for mining and domestic purposes," the following rules and regulations:

1. Section 2461, Revised Statutes, is still in force in all of the States and Territories named in the bill, and its provisions may be enforced, as heretofore, against persons trespassing upon any other than lands which are in fact mineral, or have been withdrawn as such; and in all cases where trespasses are committed upon the timber upon public lands which are not mineral, the trespassers will be prosecuted under said section.

2. It shall be unlawful for any person to cut or remove, or cause to be cut or removed, from any of the mineral lands of the United States any timber or undergrowth of any kind whatsoever less than 8 inches in diameter, and any person so offending shall be liable to be fined, in compliance with the provisions of the third section of said act, in any sum not exceeding five hundred dollars, and to which may be added imprisonment for any term not exceeding six months.

\* \* \* \* \*

Very respectfully,

J. A. WILLIAMSON,  
Commissioner.

DEPARTMENT OF THE INTERIOR, August 16, 1878.

The foregoing is hereby approved.

C. SCHURZ,  
Secretary.

Rules 3 and 4 have been revoked.

In so far as the above circular relates to the act of June 3, 1878, entitled, "An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes," the provisions contained therein have been modified and rescinded by circular of June 30, 1882, approved July 1, 1882. (See "Mineral lands," paragraph 14, pages 7 and 8.)

#### SETTLEMENT OF TRESPASS BY PURCHASE OF THE LAND TRESPASSED UPON.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That when any lands of the United States shall have been entered and the Government price paid therefor in full no criminal suit or proceeding by or in the name of the United States shall thereafter be had or further maintained for any trespasses upon or for or on account of any material taken from said lands, and no civil suit or proceeding shall be had or further maintained for or on account of any trespasses upon or material taken from the said lands of the United States in the ordinary clearing of land, in working a mining claim, or for agricultural or domestic purposes, or for maintaining improvements upon the land of any *bona fide* settler, or for or on account of any timber or material taken or used by any person without fault or knowledge of the trespass or for or on account of any timber taken or used without fraud or collusion by any person who in good faith paid the officers or agents of the United States for the same or for or on account of any alleged conspiracy in relation thereto: *Provided*, That the provisions of this section shall apply only to trespasses and acts done or committed and conspiracies entered into prior to March first, eighteen hundred and seventy-nine: *And provided further*, That defendants in such suits or proceedings shall exhibit to the proper courts or officer the evidence of such entry and payment and shall pay all costs accrued up to the time of such entry.

SEC. 2. That persons who have heretofore under any of the homestead laws entered lands properly subject to such entry, or persons to whom the right of those having so entered for homesteads may have been attempted to be transferred by *bona fide* instrument in writing, may entitle themselves to said lands by paying the Government price therefor, and in no case less than one dollar and twenty-five cents per acre, and the amount heretofore paid the Government upon said lands shall be taken as part payment of said price: *Provided*, This shall in no wise interfere with the rights or claims of others who may have subsequently entered such lands under the homestead laws.

SEC. 3. That the price of lands now subject to entry which were raised to two dollars and fifty cents per acre, and put in market prior to January, eighteen hundred and sixty-one, by reason of the grant of alternate sections for railroad purposes is hereby reduced to one dollar and twenty-five cents per acre.

SEC. 4. This act shall not apply to any of the mineral lands of the United States; and no person who shall be prosecuted for or proceeded against on account of any trespass committed or material taken from any of the public lands after March first, eighteen hundred and seventy-nine, shall be entitled to the benefit thereof.

Approved June 15, 1880.

The following circular of instructions has been issued under the above act:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., October 9, 1880.

*Registers and Receivers United States Land Offices:*

'GENTLEMEN: In carrying out the provisions of the act of Congress of June 15, 1880, entitled "An act relating to the public lands of the United States," you will be governed by the following instructions supplemental to, and in lieu of, the circular of this office of July 17, 1880, which is hereby rescinded.

1. The first section of said act provides that when any lands of the United States shall have been entered, and the Government price paid therefor, no suits or proceedings on account of trespasses committed thereon prior to March 1, 1879, shall be had or maintained.

2. This section extends to such trespassers the privilege of paying for the land upon which the trespass was committed at the legal price per acre at date of entry.

3. The privilege of purchase under said section is not confined to lands subject to ordinary private entry, but extends to any lands, not mineral, subject to disposal under existing general laws.

4. No entry can be allowed under this section if the valid subsisting claim of another person shall have attached prior to the application to purchase.

5. Where lands are plainly subject to ordinary private entry, no special application to purchase, other than the usual application in cases of private entry, is required in order to enable the purchaser to avail himself of the benefits of the act.

6. When lands are not plainly subject to ordinary private entry, and application to purchase the same shall be made with a view to securing the immunity contemplated by said section, you will require the application to be presented under oath of the applicant, giving a full and detailed statement of all the facts upon which he bases his claim to purchase. Such sworn statement should be corroborated by the affidavits of credible witnesses, and you will thereupon forward all the papers in a special letter, to this office, allowing no entry until so directed.

7. Under the second section, duly qualified persons who, prior to June 15, 1880, entered, under any of the homestead laws, lands properly subject to such entry are permitted to obtain title by paying the Government price, less the fee and commissions paid at date of original entry.

8. In allowing entries of this class, you will require proof that the party was twenty-one years of age, was a citizen, or had declared his intention to become a citizen of the United States, and was in other respects entitled to make the entry.

9. When homestead entries, made prior to June 15, 1880, have been attempted to be transferred by *bona fide* instrument in writing, the persons to whom such transfers were made are authorized to obtain title by like payments, and with like deduction of fees and commissions, as in the case of original homestead parties.

10. In permitting purchases, by transferees of homestead rights, you will first ascertain whether the original homestead entry was a valid entry under the homestead laws. You will then require the instrument in writing by which it was sought to transfer such homestead right, to be filed, together with the best evidence attainable of the *bona fide* character of the transfer, including the affidavit of the party who seeks to purchase. You will also require satisfactory proof that the attempted transfer was made prior to June 15, 1880.

11. You will exercise all possible care in allowing purchases of the above character, as it is not improbable that fraudulent entries will be attempted, and the proper execution of the law will largely depend upon your vigilance and discretion. In cases wherein you entertain a doubt of the propriety of allowing the application to purchase, you should refer all the papers to this office, with a full statement of facts and your opinion.

12. No entry will be allowed under the second section when the original homestead entry was not a valid entry; nor when an entry under the homestead laws shall have been made on the same land subsequent to the original entry; nor if the land was embraced in a prior valid entry at the date of such original homestead entry; nor where adverse legal rights of any character exist at the date of the application to purchase.

13. Applications to purchase under the second section will be made on Form No. 18, as in case of ordinary cash entry, and must be accompanied by the receiver's duplicate homestead receipt; or, if that has been lost or destroyed, by an affidavit setting forth such fact, and giving the register's and receiver's number, and the date of the original homestead entry. It must also be stated in the application that the same is made under the second section of the act of June 15, 1880.

14. Where the duplicate receipt has been lost or destroyed, and the application to pur-

chase is made by the original homestead party, the applicant must make oath that he has not transferred nor attempted to transfer his homestead rights under said entry, nor assigned his right to receive the repayment of the fees, commissions, and excess payments paid thereon.

15. In each case of an entry under the second section the register will certify to the receiver the amount to be allowed as credit for fees, commissions, and excesses already paid; the applicant first making oath that said fees, commissions and excess payments have not been repaid, and that no application for such repayment has been made.

16. Entries under the second section will receive current register's and receiver's numbers in the regular cash series, and will be returned in the same manner as in other cases of cash entry, referring, however, in each instance, on your cash abstracts, certificates, and receipts, to the date of the act authorizing the entry, the register's and receiver's number of the original homestead application, and the amount allowed as credit for fees and commissions, as follows: "Act June 15, 1880. Original homestead entry No. ——. Credit for fees and commissions, \$—."

17. The *areas* of said homestead entries, having been heretofore reported, will be deducted from the footings of your cash abstracts, and the aggregate of such entries will be stated in red ink in your recapitulations.

18. The amount received under said second section will be accounted for by the receiver, as in case of other cash sales, except that in his quarterly detailed account he will note the date of the act opposite each entry of this class, and will state the areas in red ink, and will not include the same in his footings. In his recapitulation and in his condensed quarterly accounts-current, he will make a separate entry, as follows: "Sales under the second section, act of June 15, 1880, \$—."

19. Final homestead proof not being required in these cases, no advertisement or notice of intention to make final proof is necessary, and no final homestead fees are to be paid or collected.

20. Warrants and scrip made receivable by law for lands subject to sale at private entry, or in commutation of homestead or pre-emption rights, and certificates of deposit on account of surveys, will be deemed receivable for lands purchased under the second section of act of June 15, 1880.

21. The existing rule must, however, be observed, that where the value of warrants or scrip exceeds that of the land entered therewith no repayment is authorized, but the warrant or scrip applied must be fully surrendered. In such case there would be no claim for repayment on account of the fees and commissions paid on the original homestead entry.

22. The third section reduces to one dollar and twenty-five cents per acre the price of any lands which were subject to ordinary private entry at two dollars and fifty cents per acre at the date of the approval of the act, having been doubled in price by reason of the grant of alternate sections for railroad purposes, and which were put in market at that price prior to the 1st of January, 1861. Lands which have not been put in market for sale at ordinary private entry at two dollars and fifty cents per acre, or which were so put in market subsequent to the 1st of January, 1861, are not changed in price by this section. You will carefully observe the rule, as to price, thus introduced. By reference to your official records it will be in your power to ascertain the facts with regard to any lands from which to decide as to the applicability of the rule to such lands. In case of doubt you may correct your records to exhibit the facts by correspondence with this office.

23. You will further observe that, under section 4, none of the provisions of this act apply to mineral lands, and that no person is entitled to the benefit of *any provision of the entire act* who falls within the inhibition named in this section.

Very respectfully,

C. W. HOLCOMB,  
*Acting Commissioner.*

DEPARTMENT OF THE INTERIOR,  
October 15, 1880.

Approved:

C. SCHURZ,  
*Secretary.*

COMPROMISE.

[Section 3409, Revised Statutes.]

Upon a report by a district attorney, or any special attorney having charge of any claim in favor of the United States, showing in detail the condition of such claim, and

the terms upon which the same may be compromised, and recommending that it be compromised upon the terms so offered, and upon the recommendation of the Solicitor of the Treasury, the Secretary of the Treasury is authorized to compromise such claim accordingly. But the provisions of this section shall not apply to any claim arising under the postal laws.

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EXTRACTS FROM OPINIONS AND DECISIONS.

The following opinions and decisions are published for your information:

1st. Attorney-General Wirt, in an opinion of the 27th May, 1821, holds as follows: "Independent of positive legislative provisions, I apprehend that, in relation to all property, real or personal, which the United States are authorized by the Constitution to hold, they have all the civil remedies, whether for the prevention or redress of injuries, which individuals possess. (See 3 Wheaton, 181.) So the United States, being authorized to accept and to hold these lands for the common good, must have all the legal means of protecting the property thus confided to them that individuals enjoy in like cases. \* \* \* They are, therefore, in my opinion, entitled to the injunction of waste by way of prevention, and to the action of trespass by way of punishment, in like manner as individuals, similarly situated, are entitled to them."

2d. Attorney-General Taney, now Chief-Justice of the United States, in an opinion of 22d August, 1833, cites this opinion of Mr. Wirt, and concurs in it.

3d. Attorney-General Mason, in a communication of 16th July, 1845, refers to the opinion of Attorney-General Nelson, of the 11th August, 1843, and, in concurring in it, states that "when the right of pre-emption exists, the settler who has complied with the provisions of the act of 4th September, 1841, has a right of occupancy for twelve months, within which he may perfect his title by paying the minimum price of the land. Like the settlers under the armed occupation act, his right is inchoate only; and he has only those rights of property which are necessary to the perfecting of his title. He may clear the land, build on it, and inclose it with a view to cultivation. For these purposes he may use or destroy any trees which may be necessary, but within these restrictions, and necessary fire-wood, he is confined."

The penal act of 2d March, 1831, provides "for the punishment of offenses committed in cutting, destroying, or removing live-oaks and other timber or trees preserved for naval purposes."

This act of 2d March, 1831, you will find fully considered in the case of the United States *vs.* Ephraim Briggs (9 Howard, p. 351), in which the Supreme Court decided that the said act authorized the prosecution and punishment of all trespassers on public lands by cutting timber, whether such timber was fit for naval purposes or not.

4th. Judge Nelson, in the case of the United States *vs.* McEntee, in the United States district court, Minnesota, October term, 1877, held as follows, McEntee being a settler under the homestead law:

"The lands can be cleared and timber sold if cut down for the purpose of cultivation; but if the sale and traffic is the only reason for severing the timber, and it is not done with a view of improving the land, the intentions of the lawgiver are subverted."

5th. In the case of the United States *vs.* James A. Smith at the April term, 1882, of the United States district court for the eastern district of Arkansas, where it was charged that said Smith unlawfully cut and removed certain timber from lands belonging to the United States in the State of Arkansas and converted the same into cordwood and railroad ties, and where evidence was produced to show that he purchased said timber from parties who claimed to own the land upon which it stood, Judge Caldwell held as follows:

"Persons cutting and removing timber from lands are bound to know that they who assumed to sell them the timber had the right to do so, and if they did not, the purchaser is liable to the lawful owner of the timber for its value, and if the trees are worked up into cordwood or railroad ties, such cordwood and ties are the property of the owner of the land as much as the trees were, and the owner of the land is entitled to recover the value of the timber in its new form, in other words, the value of the cordwood and railroad ties."

## CIRCULARS OF A GENERAL CHARACTER,

RELATIVE TO PROTECTING TIMBER ON PUBLIC LAND FROM FOREST FIRES AND FROM  
WANTON WASTE AND DESTRUCTION.DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., September 19, 1882.Mr. \_\_\_\_\_,  
*Special Timber Agent.*

SIR: The fact having been brought to the notice of this Department that extensive forest fires from time to time, in different sections of the country, are destroying vast amounts of timber upon the public lands, and no means have heretofore been provided by the Government for the purpose of checking or preventing the same and preserving the public timber from such destruction, you are hereby informed that it will hereafter be a part of the duty of the special timber agents of the General Land Office to protect and preserve the public timber from this kind of waste and destruction, as well from destruction by the woodsman, or from any other source.

You are, therefore, hereby instructed to keep yourself fully informed as to the condition of the timber upon the public land in your district, and to use your best endeavors to protect it from waste and destruction from any and all sources; and to this end—where there are State or Territorial laws for the preservation of timber—you are authorized and directed to cooperate with the State or Territorial authorities and to aid and assist them in enforcing said laws.

Should you at any time receive information of any forest fire being in progress in your district, you will at once proceed to the locality of the same and use all possible means to check its progress and to extinguish it.

Should it be necessary to employ assistance in such a case, and the emergency be such that it would be impossible to inform this office of that fact and to receive special instructions, you are hereby authorized to expend a reasonable sum for such purpose, but you will at once inform this office, by telegraph, of the number of persons so employed and the total probable expense.

One of the most dangerous elements to contend with in case of forest fires, and one of the principal auxiliaries to the spread of the same, is the dry tops of trees which parties leave upon the ground after having cut and removed the timber for saw logs and other purposes. When the tree tops can be profitably cut into wood, the person cutting such trees on public land—when such cutting is authorized by law—must cut the tops into wood, or at least cut up and pile the brush in such manner as to prevent the spread of fires.

A failure on the part of woodsmen to utilize all of the tree that can profitably be used, and to take reasonable precaution to prevent the spread of fires, will be regarded by this office as wanton waste, and subject them to prosecution for wanton waste and destruction of public timber.

Very respectfully,

N. C. MCFARLAND,  
*Commissioner.*

DEPARTMENT OF THE INTERIOR, September 21, 1882.

Approved:

H. M. TELLER,  
*Secretary.*

FOREST FIRES.

The following public notice relative to forest fires is furnished to special timber agents, printed on cloth, for posting in conspicuous places in their districts:

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., March 8, 1883.

The attention of the public is called to the fact that large quantities of the public timber are annually destroyed by forest fires which, in many cases, originate through the carelessness of hunting, prospecting, and other camping parties, while in some instances they occur through design.



I take this method of warning all persons that hereafter the cause and origin of all fires will be closely investigated, and where the fire is ascertained to have originated through either carelessness or design the parties implicated will be prosecuted to the full extent of the law.

Special timber agents are hereby directed to proceed against all offenders under the local laws of the State or Territory relating to the unlawful setting out of fires in which the same may occur.

The public generally are requested to aid the officers of the Government in its efforts to check the evil referred to and in the punishment of all offenders.

N. C. MCFARLAND,  
*Commissioner.*

#### CLASSIFICATION OF MESQUITE AS TIMBER.

[Circular.]

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE.  
Washington, D. C., October, 12, 1882.

To Registers and Receivers of United States Land Offices, and to Special Timber Agents of the General Land Office.

GENTLEMEN: The rules and regulations heretofore prescribed in relation to the cutting and removing of mesquite growing and being upon any of the public lands of the United States—mineral in character—are hereby modified as follows:

The cutting and removing of mesquite is restricted and confined to actual settlers and *bona fide* residents of the State or Territory who are citizens of the United States.

The cutting and removing of mesquite from the public lands of the United States—said lands being mineral—is permitted for all building, agricultural, mining, and domestic purposes needed in the development and improvement of the homes or mining interests of such actual settlers, residents, or miners.

It is further permitted that mesquite may be cut and removed from the public mineral lands for the purpose of selling the same to any actual settler or resident of the State or Territory, but only for the uses and purposes hereinbefore described.

The cutting and removing of mesquite from any of the public mineral lands of the United States for export from the State or Territory, or by, or for sale to, any railroad company as an article of fuel or repair is strictly prohibited; the person or persons so offending being liable to civil and criminal prosecution as provided by section 3 of the act approved June 3, 1878, entitled "An act authorizing the citizens of Colorado, Nevada, and the Territories to fell and remove timber on the public domain for mining and domestic purposes."

The cutting and removing of mesquite from any of the public lands of the United States—non-mineral in character—is strictly prohibited for any purpose, except the same is to be used in building, fencing, or otherwise improving and cultivating the land or claim from which the same is cut or removed.

Any person cutting or removing mesquite from non-mineral public lands of the United States except for the purposes and uses above stated, is liable to punishment therefor under Section 2461 Revised Statutes, both civilly and criminally.

Very respectfully,

N. C. MCFARLAND,  
*Commissioner.*

DEPARTMENT OF THE INTERIOR,  
October 12, 1882.

The foregoing is hereby approved.

H. M. TELLER,  
*Secretary.*

#### MEASURE OF DAMAGES TO WHICH THE GOVERNMENT IS ENTITLED FOR TIMBER TRESPASS.

The following circular relative to the manner of ascertaining the damages to which the Government is entitled under the several cases set forth, is based upon the decision of the United States Supreme Court, at its October term, 1882, in the case of *Wooden-ware Company vs. The United States* (106 U. S., 432):

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington D. C., March 1, 1883.

*Special Timber Agents, General Land Office, ———:*

GENTLEMEN: Respecting the measure of damages to which the Government is entitled in settlement for timber trespass upon the public domain, the United States Supreme Court has recently decided that—

1. Where the trespasser is a knowing and willful one, the full value of the property at the time and place of demand, with no deduction for labor and expense of the defendant, is the proper rule of damages.

2. Where the trespasser is an unintentional or mistaken one or an innocent purchaser from such a trespasser, the value of the timber at the time when first taken by the trespasser, or if it has been converted into other material, its then value, less what the labor and expense of the trespasser and his vendor have added to its value, is the proper rule of damages.

3. Where a person or corporation is a purchaser without notice of wrong from a willful trespasser, the value at the time of purchase should be the measure of damages.

You will, therefore, in cases where settlement is contemplated, state the facts and circumstances attending the cutting and the purchase of the timber, in such clear and definite manner that the Supreme Court decision, above referred to, can be readily applied.

In cases where settlement with an innocent purchaser of timber cut unintentionally, through inadvertence or mistake, is contemplated, you are instructed to report as nearly as possible the damage to the Government as measured by the value of the timber before cutting.

Very respectfully,

N. C. MCFARLAND,  
*Commissioner.*

DEPARTMENT OF THE INTERIOR,  
March 1, 1883.

Approved:

H. M. TELLER,  
*Secretary.*

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, D. C., April 5, 1883.

*To Registers and Receivers, United States Land Offices, and Special Agents:*

GENTLEMEN: You are instructed to circulate the following notice in your district:

NOTICE RELATIVE TO UNLAWFUL INCLOSURES OF PUBLIC LANDS.

In view of the numerous complaints of the unlawful inclosures of public lands for stock range purposes, and consequent impediment to settlements, all persons are hereby notified as follows:

The public lands are open to settlement and occupation only under the public land laws of the United States, and any unauthorized appropriation of the same is trespass.

Such trespass is equally offensive to law and morals as if upon private property.

The fencing of large bodies of public land beyond that allowed by law is illegal, and against the right of others who desire to settle or graze their cattle on the inclosed tracts.

Until settlement is made, there is no objection to grazing cattle or cutting hay on Government land, provided the lands are left open to all alike.

Graziers will not be allowed, on any pretext whatever, to fence the public lands and thus practically withdraw them from the operation of the settlement laws.

This Department will interpose no objections to the destruction of these fences by persons who desire to make *bona fide* settlement on the inclosed tracts, but are prevented by the fences, or by threats or violence, from doing so.

The Government will take proper proceedings against persons unlawfully inclosing tracts of public land whenever, after this notice, it shall appear that by such inclosures they prevent settlements on such lands by others who are entitled to make settlement under the public land laws of the United States.

Very respectfully,

N. C. MCFARLAND,  
*Commissioner.*

DEPARTMENT OF THE INTERIOR,  
April 5, 1883.

Approved:

H. M. TELLER,  
*Secretary.*

# FORMS

*PRESCRIBED BY THIS OFFICE FOR THE OFFICIAL USE OF SPECIAL TIMBER AGENTS.*

1.

## OATH OF OFFICE.

I, \_\_\_\_\_, do solemnly \_\_\_\_\_ that I have never voluntarily borne arms against the United States since I have been a citizen thereof; that I have voluntarily given no aid, countenance, counsel, or encouragement to persons engaged in armed hostility thereto; that I have neither sought nor accepted, nor attempted to exercise the functions of, any office whatever, under any authority, or pretended authority, in hostility to the United States; that I have not yielded a voluntary support to any pretended government, authority, power, or constitution within the United States, hostile or inimical thereto. And I do further \_\_\_\_\_ that, to the best of my knowledge and ability, I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter, so help me God.

Sworn to and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_, A. D. 188-.

2.

## WEEKLY REPORT.

*Report of \_\_\_\_\_, special agent G. L. O., for week commencing the \_\_\_\_\_ day of \_\_\_\_\_, 188-, and ending the \_\_\_\_\_ day of \_\_\_\_\_, 188-.*

Date.	Day of week.	Name of place visited.	Nature of business.
			NOTE.—When the nature of business requires a more extended explanation than the space allotted to each day permits, state same in an accompanying letter.
	Monday ----		
	Tuesday ----		
	Wednesday --		
	Thursday ----		
	Friday -----		
	Saturday ----		

\_\_\_\_\_ 188 , I, \_\_\_\_\_, a special agent of the General Land Office,  
do hereby certify that I have performed the services stated,  
and that the above report is correct.

\_\_\_\_\_  
Special Agent.

(NOTE.—Date, place, and State above.)

12483—3

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3.

## VOUCHER FOR BOARD AND LODGING.

(4-158.)

No. —.]

Received, —, 188—, from —, special agent General Land Office,  
 — dollars for board and lodging from — to —, 188—, inclusive, — days,  
 at \$ — per day.  
 \$ —.

Name: —.  
 Post Office: —.

4.

## VOUCHER FOR SPECIAL TRANSPORTATION.

(4-159.)

No. —.]

Received, —, 188—, from —, special agent General Land Office,  
 — dollars for hire of — horse — and — wagon, with — driver, — cluding  
 expenses, from — to —, distance — miles; from —, to —, 188—,  
 inclusive, — days, at \$ — per day.  
 \$ —.

Name: —.  
 Post Office: —.

5.

## VOUCHER FOR MISCELLANEOUS (AUTHORIZED) EXPENDITURES.

(4-160.)

No. —.]

Received, —, 188—, from —, special agent General Land Office,  
 — dollars for — from — to —, 188—, inclusive, — days, at \$ —  
 per day.  
 \$ —.

Name: —.  
 Post Office: —.

6.

## RAILROAD TRANSPORTATION ORDER.

It is not deemed necessary to give the form of transportation order here, as such an order, to be valid, must first be signed by the honorable Commissioner of the General Land Office, and the occasion can never arise where it will be necessary or proper for a special agent to draft such an order, should his supply be exhausted.

7.

## PHYSICIAN'S CERTIFICATE, IN CASE OF SICKNESS FOR A PERIOD EXCEEDING TWO CONSECUTIVE DAYS.

(Give post office address and date:) —, —,  
 —, 188—.

I hereby certify that I am a regularly practicing physician, and as such rendered continuous service to — from — to —, 188—, inclusive; and that it is my professional opinion that he was, in consequence of sickness, unable to attend to ordinary business from — to —, 188—, inclusive.

—, M. D.

I do certify on oath to the above facts.

—,  
*Special Agent.*

Sworn to and subscribed before me, this — day of —, 188—.

—,  
*Notary Public.*

8.

## REPORT OF TIMBER TRESPASS.

It is not deemed necessary to print the form of report here, as all the requirements are embodied under the head of "Manner of making report of timber trespass," pages — to —.

9.

## RELEASE OF TIMBER OR LUMBER.

I, ———, a member of the firm of ———, do hereby certify that ——— engaged in the business of ———; that ——— place of business is at ———, county ——— of ———; that during the months of ——— and ———, 18—, ——— purchased or became possessed of ———, which is now lying at ———; that at the time ——— said ——— had no knowledge or information that the same was cut from Government land, but had taken reasonable precautions to satisfy ——— to the contrary, having ——— now informed, and have satisfied ——— that said ——— was unlawfully cut from ——— during the years 18— and 18—, and being desirous of restoring said property to its rightful owner, and of avoiding any legal proceedings in the premises, ——— do hereby voluntarily relinquish and release to the United States all ——— right, title, and interest in and to said ———; and in consideration of said release and the circumstances above set forth ——— ask that ——— be relieved from all further liability in the premises.

—————,  
for ———.

Subscribed and sworn to before me this ——— day of ———, 188—.

[SEAL.] ———.

10.

## PROPOSITION OF SETTLEMENT.

—————,  
—————, 188—.

Honorable COMMISSIONER OF THE GENERAL LAND OFFICE,  
Washington, D. C., ———, ———:

SIR: I, ———, a member of the firm of ———, engaged in the business of ———, at ———, county of ———, in the ——— of ———, do hereby represent and certify that, during the months of ——— and ———, 188—, ——— certain timber consisting of ———, said timber now lying ———; and that said timber was cut from the following described Government lands, and was ——— by ——— under the following circumstances: ———.

——— further certify that the value of said timber in the position and condition it was in when ——— first informed or became aware that the same was cut from Government land was \$—— per ———; that at the time it was cut, the value of the same standing in the tree was \$—— per ———; that the value when felled and cut up into logs was \$—— per ———, and the market value of the same at the boom or mill yard was \$—— per ———, now informed by ———, a special timber agent of your office, that ——— liable to ——— and ——— prosecution for the value of said timber and the damages sustained by the Government, the same having been unlawfully cut from Government land.

As an acknowledgment of the rights of the Government in the premises, and for the purpose of avoiding litigation, ——— hereby offer to pay unto the United States in settlement for said ——— the sum of ———, being at the rate of \$—— per ——— for said timber, said payment to be made to the receiver of public moneys at ———, or in such other manner as you may direct, within ——— days from the date of notification of acceptance of this proposition, and in consideration of such payment, and the circumstances hereinbefore set forth, I respectfully ask that I be relieved from ——— or from any further liability in the premises.

—————,  
for ———.

Subscribed and sworn to before me, ———, at ———, this ——— day of ——— 188—.

[SEAL.] ———.

## AFFIDAVIT WHERE LAND IS MINERAL.

I, \_\_\_\_\_, a resident of \_\_\_\_\_, county of \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, do hereby certify that I am well acquainted with the character of the land described as \_\_\_\_\_, situated in the \_\_\_\_\_ of \_\_\_\_\_, upon which it is alleged that \_\_\_\_\_, a resident of \_\_\_\_\_, county of \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, has cut and removed or caused others to cut and remove timber to the extent of \_\_\_\_\_; that my personal knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is to my certain knowledge within the limits thereof certain veins or lodes of quartz or other rock in place bearing \_\_\_\_\_ or other valuable mineral deposit; that said lands are indisputably mineral in character and not subject to entry under existing laws of the United States except for mineral entry, that said lands are not solely valuable for the timber thereon, and are unfit for agricultural purposes or for cultivation.

Subscribed and sworn to before me, \_\_\_\_\_, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 188-.

[SEAL.]

## AFFIDAVIT WHERE LAND IS NON-MINERAL.

I, \_\_\_\_\_, a resident of \_\_\_\_\_, county of \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, do hereby certify that I am well acquainted with the character of the land described as \_\_\_\_\_, situated in the \_\_\_\_\_ of \_\_\_\_\_, upon which it is alleged that \_\_\_\_\_, a resident of \_\_\_\_\_, county of \_\_\_\_\_, in the \_\_\_\_\_ of \_\_\_\_\_, has cut and removed or caused others to cut and remove timber to the extent of \_\_\_\_\_; that my personal knowledge of said land is such as to enable me to testify understandingly with regard thereto; that there is not, to my certain knowledge, within the limits thereof, any vein or lode of quartz or other rock in place bearing gold, silver, copper or other valuable mineral deposit; that said land is indisputably non-mineral in character valuable for \_\_\_\_\_ and subject to entry under existing laws of the United States for \_\_\_\_\_.

Subscribed and sworn to before me, \_\_\_\_\_, at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 188-.

[SEAL.]

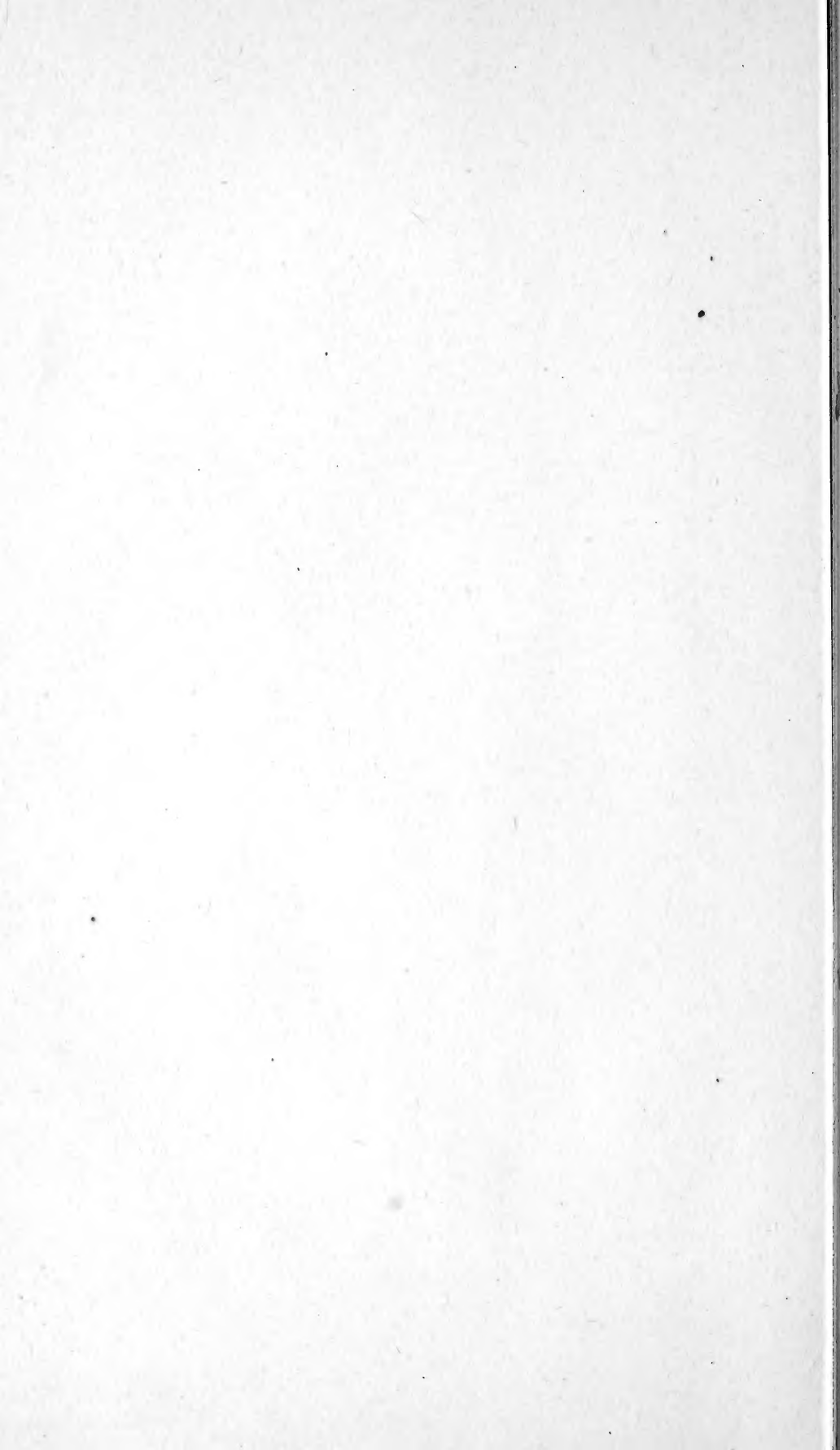
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