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### "Graduation Act of August 4, 1854"

Thos. Hendricks

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August 4, 1854

"Graduation Act of August 4, 1854" issued by Thos. Hendricks, Commissioner, of the office of Register and Receiver of the General Land Office. The act was circulated again? on April 7, 1856.

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GRADUATION ACT OF AUGUST 4, 1854.

GENERAL LAND OFFICE,

APRIL 7, 1856.

Gentlemen:

To secure the rights of bona fide settlers, by obtaining from them the proof necessary to warrant the speedy issue of patents, and thus shield them from the efforts of speculation to set aside such entries, on the ground of alleged non-compliance with the purpose of the law, you were directed by this office, in the Circular of January 23, 1856, to call upon purchasers, who made entries "for settlement and cultivation," to produce proof of settlement, &c., within two months from the date of notice.

The time for presenting the proof was thus limited to hasten its production, the office reserving to itself the right to extend the period, at the demand of parties interested, within any reasonable limits.

"As the benefits of the act were designed to be for actual settlers only," as declared by the Attorney General, in his opinion of the 28th July, 1855, it is proper to fix the time within which proof of the settlement shall be presented, but it is the opinion of the Secretary of the Interior, and the Commissioner of the General Land Office, that it should be fixed upon the most liberal principles, and that the time heretofore allowed is too short, and that one year should be allowed, thus assimilating the period to that prescribed in the pre-emption act of 1841, in relation to lands subject to private entry.

Therefore you are hereby directed—

1st. In all existing entries, for "settlement and cultivation," to allow the parties one year from the first of June next, for the production of the required proof of actual settlement, &c.

2d. In all entries thereafter, (that is, after 1st June,) ONE YEAR from the DATE OF ENTRY is hereby allowed for the production of the requisite proof.

3d. Where entries have been made, the purchasers not intending to occupy the land in person, under a misconception of the law, upon filing an affidavit to that effect, you will allow them to hold the land at \$1.25 per acre, requiring them to pay up the difference between that price and the sum already paid under the Graduation Act. For the additional payment, the Receiver must issue a supplemental receipt, giving A HALF number to it, in the regular series. The transaction must be reported in the monthly abstracts of the Register and Receiver, and the Receiver must, of course, charge himself with such additional payments in his quarterly accounts.

4th. In case of the death of a purchaser before perfecting his rights, on proof to the satisfaction of the General Land Office of the bona fide intention of the decedent to fulfil the requirements of the law, his claim shall be confirmed to his heirs or legal representatives.

5th. If a "Minor" is the "HEAD OF A FAMILY," his entry is valid. If not the Head of a family, it is invalid. (Opinion of the Attorney General, July 25, 1855.)

In the case, however, of a purchaser, whose entry is invalid by

reason of his minority at the time, but who afterwards reaches his majority, and has identified himself with the premises by actual settlement and cultivation, the land may be recured to him by producing proof of such actual settlement and cultivation.

6th. Where an entry is made for the use of an "adjoining" farm, it is required that an affidavit shall be filed designating the "original farm," so it may appear that the entry forms, with the said "farm," a compact body of land. This is all the proof required in this class of cases.

7th. Where the validity of entries may be contested, and the sales made void, no preference right will be given to the contestant to enter the land thus vacated, unless it shall appear that he had a right under the law, as an actual settler thereon, at the date of the illegal entry.

Where entries made by speculators in violation of the law, are set aside, the lands covered thereby will be laid open, after proper notice, to actual settlers.

Very respectfully,

Your obedient servant,

THOS. A. HENDRICKS,  
Commissioner.

Register and Receiver