

## EXTENDING RELIEF OF SETTLERS AND ENTRYMEN ON BACA FLOAT NO. 3, ARIZONA

FEBRUARY 11, 1926.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed

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

### REPORT

[To accompany H. R. 5210]

The Committee on the Public Lands, to whom was referred H. R. 5210, extending the provisions of an act for the relief of settlers and entrymen on Baca Float No. 3, in the State of Arizona, having considered the same, report the bill back to the House with the recommendation that the bill do pass without amendment.

The bill was referred to the Secretary of the Interior for report, and its enactment is recommended in the following letter:

THE SECRETARY OF THE INTERIOR,  
Washington, January 9, 1926.

HON. N. J. SINNOTT,  
*Chairman Committee on the Public Lands,  
House of Representatives.*

MY DEAR MR. SINNOTT: The following report is submitted on H. R. 5210, entitled "A bill extending the provisions of an act for the relief of settlers and entrymen on Baca Float No. 3 in the State of Arizona."

The act of July 5, 1921 (42 Stat. 107), the provisions of which the bill proposes to extend two years, and a full report as to the history leading up to the passage of which act is found with H. R. 2422, Sixty-seventh Congress, first session, provides that where prior to December 13, 1917, patents or patent certificates have issued under the homestead or preemption laws for lands in Baca Float No. 3 in Arizona, and the patentees, their assigns, and legal representatives have been evicted by the local courts by reason of the prior grant to the legal representative of Inis Maria Baca, the patentee, his assigns, or his legal representative, who under the laws and regulations would have been entitled to the return of the money paid the Government in connection with the entry, shall be

entitled to select in lieu thereof not exceeding twice the area of the lands lost, of any nonmineral, unoccupied surveyed public lands in the State of Arizona subject to homestead entry.

The act also provides that where a party has made a homestead entry for the land and had fully complied with the homestead laws prior to June 22, 1914, in the bona fide belief that the land was public land, and has been evicted therefrom or prevented from making final entry by reason of the prior grant, the entryman, or his successor under the homestead laws, may make a second homestead entry for other land in Arizona not exceeding twice the area lost by reason of the prior grant.

The act set forth, among other conditions precedent to the final confirmation of a selection, that the right to select must be exercised within three years.

As will be seen from an examination of the former report, the parties for whom the act of July 5, 1921, was passed lost their lands through no fault or error on their part, and they are entitled to every consideration possible.

The time within which to make the selections having expired and it appearing that further time is necessary, it is recommended that the bill be enacted.

Very truly yours,

HUBERT WORK.

The following letter from the Commissioner of the General Land Office recites what relief has been extended under the act of July 5, 1921, and the exhibit in the attached report lists the settlers and entrymen who might be benefited. Since there are a number of deserving persons who, through lapse of time or other causes, have been unable to perfect entries in lieu of the lands they have lost, it is the opinion of your committee that said act should be extended for a period of two years.

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, January 26, 1926.

HON. CARL HAYDEN,  
*House of Representatives.*

MY DEAR MR. HAYDEN: In reply to your letter of January 20, 1926, inclosing H. R. 5210, there is inclosed herewith a memorandum of the entries made under the provisions of the act of July 5, 1921 (42 Stat. 107), for the relief of entrymen on Baca Float No. 3 in Arizona.

Patents have issued on 12 entries and selections and 4 applications have been rejected. Final action has not been taken on five applications where the application was not made by the parties entitled to the relief, or where additional proof of the applicant's right to make the selection has been required.

Two carbon copies of this letter are inclosed with additional copies of the memorandum.

Very respectfully,

WILLIAM SPRY, *Commissioner.*

*Entries made under the provisions of the act of July 5, 1921 (42 Stat. 107), for the relief of entrymen on Baca Float No. 3 in Arizona*

Entry	Area	Entryman	Patent	Date
055330	315. 93	Wilson B. Barringer.....	956381	Mar. 22, 1925
08986	160	do.....		
056891	320	William H. Walker.....	961280	June 11, 1925
01533	160	do.....		
056927	319. 72	Harvey S. Walker.....	(1)	
02699	160	Isabella N. Mercer.....		
056928	320	Owen H. Walker.....	(1)	
0390	160	Robert J. Goode.....		
056929	320	Harvey S. Walker.....	(2)	
03582	160	do.....		
056930	320	Thomas M. Cummings et al.....	970555	Dec. 9, 1925
0856	160	David J. Cumming.....		
056935a	119. 42	Chas. D. Karns.....	962504	June 27, 1925
056935b	160	Chas. D. and Marg. Karns.....	962505	Do.
FC1384	160	Roman Ramirez.....		
056936	160	William Lowe.....	956382	Mar. 26, 1925
015786	80	do.....		
056937	320. 11	Manuel King.....	956383	Do.
FC159	160	do.....		
056938	320	Raymond Burrnel et al.....	961811	June 18, 1925
FC746	160	Sarah E. Burrnel.....		
056950	320	Joseph E. Wise.....	(3)	
01003	160	Catherine H. Wise.....		
056951	320	Joseph E. Wise.....	961231	June 11, 1925
01001	160	do.....		
056952	880	Lucia J. Sykes Wise.....	(4)	
01299	40. 11	Lucia J. Sykes.....		
056972	1, 000	Bertha Sanford Miller.....	(3)	
CE140	160	Francisca Day.....		
CE175	160 (20)	Robert V. Bloxton.....		
CE208	160	Henry B. Guinn.....		
CE207	160	George W. Stevens.....		
056974	160	Heirs of E. L. Gomez.....	958583	Apr. 30, 1925
02035	160 (84)	Evaristo L. Gomez.....		
056975	440	Sarah M. Black.....	962792	July 8, 1925
FC149	160	John F. Black.....		
CE298	880 (58)	Thomas J. Maraghan.....		
056980	327. 41	Cruz S. Arvizu et al.....	(5)	
0917	160	Dometrio Barrios.....		
056981	320	Dolores Valdez, widow.....	963080	July 15, 1925
02707	160	Jose Maria Valdez.....		
056982	320	Josefa de Arvizu.....	(6)	
0918	160	Jesus Arvizu.....		
056986	320	William A. O'Connor.....	(1)	
03582	160	Harvey S. Walker.....		

<sup>1</sup> Rejected.

<sup>2</sup> Rejected by R. and R.

<sup>3</sup> Amended application required.

<sup>4</sup> Awaiting proof.

<sup>5</sup> Awaiting payment for excess.

<sup>6</sup> Further proof required.

The report of the Committee on the Public Lands on H. R. 2422, Sixty-seventh Congress, first session, is attached to and made a part of this report.

House Report No. 73, Sixty-seventh Congress, first session

RELIEF OF SETTLERS AND ENTRYMEN ON BACA FLOAT  
NO. 3, ARIZONA.

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MAY 18, 1921.—Committed to the Committee of the Whole House on the state of the Union and ordered to be printed.

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

REPORT.

[To accompany H. R. 2422.]

The Committee on the Public Lands, to whom was referred the bill (H. R. 2422) for the relief of settlers and entrymen on Baca Float No. 3, in the State of Arizona, having considered the same, report the bill back to the House with the recommendation that the bill do pass with the following amendments:

On page 2, strike out all of lines 1, 2, and 3, and insert in lieu thereof the following: "Be entitled to select in lieu thereof not exceeding twice the area of the lands lost, of any nonmineral unoccupied surveyed public lands in the State of Arizona subject to homestead entry."

On page 2, line 13, after the word "land," insert the following, "situate in the State of Arizona and not exceeding twice the area of the original homestead entry lost as herein set forth."

The principal historical facts relating to this case are as follows.

In March, 1835, a tract of land was granted by the then Mexican Government to the town of Las Vegas, N. Mex. The heirs of Luis Maria Cabeza de Baca protested at the time that this grant was in conflict with a prior grant made to Baca. The treaty of Guadalupe Hidalgo, between the United States and Mexico, proclaimed July 4, 1848, preserved the legal value of all grants of land previously made by Mexico in the ceded territories. Section 6 of an act to confirm certain private land claims in New Mexico, approved June 21, 1860 (12 Stat., 71), provided:

That it shall be lawful for the heirs of Luis Maria Baca, who make claim to the said tract of land as is claimed by the town of Las Vegas to select instead of the land claimed by them, an equal quantity of vacant land, not mineral, in the Territory of New Mexico, to be located by them in square bodies, not exceeding five in number. And it shall be the duty of the surveyor general of New Mexico to make survey and location



of the lands so selected by said heirs of Baca when thereunto required by them: *Provided, however*, That the right hereby granted to the heirs of Baca shall continue in force during three years from the passage of this act and no longer.

The total area of the land granted to the town of Las Vegas was ascertained to be 496,446.96 acres and the Baca heirs selected five tracts of land of approximately 100,000 acres each, two in the Territory of New Mexico, one in the Territory of Colorado, and two in the Territory of Arizona. One of the areas selected in Arizona, on June 17, 1863, was afterwards found to contain 99,289.31 acres in townships 21, 22, and 23 south, ranges 13, 14, and 15 east, and included a part of the irrigable lands in the valley of the Santa Cruz River.

The Department of the Interior refused to issue a patent to the Baca heirs for this selection, alleging that the land in question was notoriously mineral in character, was known to be such at the date of selection, and therefore permitted numerous conflicting entries to be made by citizens of the United States. Patents have been issued to 18 entrymen for 2,352.16 acres and 41 unpatented entries for 5,527.49 acres were pending when the Supreme Court of the United States decided, on June 22, 1914, that title to the entire area of Float No. 3 had passed from the United States to the heirs of Baca on April 9, 1864. Under a decision of the United States Court for the District of Arizona, rendered on December 13, 1917, all of the settlers were ordered to be evicted.

Your committee is of the opinion that all of the entrymen who settled on the lands in question are justly entitled to the relief granted by this bill. Seven reported decisions by the Department of the Interior on various aspects of Baca Float No. 3 were all adverse to the Baca heirs. The fact that entries were accepted, final certificates and patents issued, and that the department was opposing the claims of the heirs of Baca in the courts fully justified the settlers in making improvements on their entries. The Supreme Court having reversed all previous decisions of the Interior Department in this matter and the settlers having been evicted from their homes, it is evident that the least that Congress should do is to authorize the selection of other lands in the State of Arizona, as provided in this bill.

In the following letter the Secretary of the Interior has recommended the enactment of this bill with certain amendments which have been adopted by the committee:

DEPARTMENT OF THE INTERIOR,  
Washington, May 11, 1921.

Hon. N. J. SINNOTT,  
*Chairman, Committee on the Public Lands,*  
*House of Representatives.*

MY DEAR MR. SINNOTT: In compliance with your request of April 21, 1921, consideration had been given to H. R. 2422 for the relief of settlers and entrymen on Baca Float No. 3 in the State of Arizona. The provisions of this bill are identical with Senate bill 2728, Sixty-sixth Congress, as reported with amendments in House Report No. 1298, Sixty-sixth Congress, third session.

The bill is for the relief of settlers and entrymen on a tract, containing 99,289.39 acres located by the heirs of Luis Maria Cabeza de Baca under the provisions of section 6 of the act approved June 21, 1860 (12 Stat., 71). The location of "Float No. 3" was made June 17, 1863, and was approved April 9, 1864, being described by metes and bounds beginning from a natural monument.

On April 30, 1866, the legal representatives of Baca filed an application to amend the location, but the amended description excluded all but a small portion in the northeast corner of the original tract. Private land claims known as Tumacacori, Calabazas, and the San Jose de Sonqita claims were filed with the surveyor general

for New Mexico, under the act of July 22, 1854, for the greater portion of the lands so excluded.

The Tumacacori and Calabazas claims were rejected by the Court of Private Land Claims and its decision was affirmed May 31, 1898, by the United States Supreme Court in *Faxon v. United States* (171 U. S., 244). The San Jose de Sonoita grant was confirmed for a reduced area by decree of the United States Supreme Court of the same date. (*Ely's Administrator v. United States*, 171 U. S., 220.)

A considerable portion of the land embraced in those rejected claims had been surveyed as public land as early as 1878 and 1880, and preemption and homestead entries were allowed at various times thereafter. In 1884 supplemental plats of the surveyed townships were prepared for the purpose of reserving from further entry the land then claimed as within the Tumacacori, Calabazas, and San Jose de Sonoita claims. On the rejection of those claims this land, except as partly confirmed, was restored to entry.

During the time from 1866 until after the rejection of the conflicting private land claims the claimants under Baca Float No. 3 were asserting before the Interior Department no claim to the land in the original location. On May 6, 1899, an application for the survey of Baca Float No. 3 according to its original location was transmitted to the department and on July 25, 1899 (29 L. D., 44), the department held that the application to amend was a relocation and could not be allowed, and directed the survey of the claim in accordance with the original location and subject to further examination as to the mineral character of the land and the rights of the claimants. The survey having been made and the final decision of the department having been adverse to the location, the claimants applied to the Supreme Court of the District of Columbia for injunction against the Secretary of the Interior and his subordinates, and by decree of the Supreme Court of the United States in *Lane v. Watts* (234 U. S., 525 and 235 U. S., 17, on review) the decision of the lower court was affirmed and the Secretary of the Interior and his subordinates were enjoined from taking further action.

The entries that were allowed during the time that the land was opened to entry are recited in House Report 1298, supra. Patents have been issued to 18 entrymen for 2,352.16 acres, and 41 unpatented entries for 5,527.49 acres were pending when the Supreme Court of the United States decided, June 22, 1914, that title to the entire area in Baca Float No. 3 had passed from the United States to the heirs of Baca on April 9, 1864. It is stated in the bill that under a decision of the United States Court for the District of Arizona, rendered on December 13, 1917, the settlers and entrymen for whom this relief is sought were ordered to be evicted.

The history of this location and of the conflicting claims, as recited in the following court decisions, will give additional information:

- 1919. *Watts v. Ely Real Estate Investment Co.* (254 Fed., 862).
- 1917. *Wise v. Watts et al.* (239 Fed., 207).
- 1914. *Lane v. Watts* (234 U. S., 539; (on review) 235 U. S., 17).
- 1898. *Faxon v. United States* (171 U. S., 244).
- 1898. *Ely's Administrator v. United States* (171 U. S., 220).
- 1892. *Astiazaran v. Santa Rita Land & Mining Co.* (148 U. S., 80).

The fact that these entries were accepted, final certificates and patents issued, at a time when the department was opposing the claims of the heirs of Baca, and when in fact the heirs of Baca were not claiming the lands embraced in these entries, fully justify the settlers in making improvements and relying upon their claims under the United States.

In view of the fact that the claims lost by the settlers by virtue of the final decree of court in favor of the owners of the Baca Float No. 3 were of much better character than the remaining public lands in the State of Arizona and had been cultivated and improved by the owners thereof, I believe that lines 1, 2, and 3 of section 2 of the bill should be amended to read as follows:

"Be entitled to select in lieu thereof not exceeding twice the area of the lands lost, of any nonmineral unoccupied surveyed public lands in the State of Arizona subject to homestead entry."

Also that line 13, page 2, be amended by inserting after the word "land" the following:

"Situate in the State of Arizona and not exceeding twice the area of the original homestead entry lost as herein set forth."

With these amendments, which will accord to settlers and entrymen a more equitable share of relief and confine the lieu selections and second homestead entries to public lands in the State of Arizona, I recommend the early enactment of the bill.

Sincerely,

ALBERT B. FALL, *Secretary.*

The report of the Senate Committee on Public Lands in the Sixty-sixth Congress is submitted as a part of this report:

[Senate Report No. 498, Sixty-sixth Congress, second session.]

The Committee on Public Lands, to whom was referred the bill (S. 2728) for the relief of settlers and entrymen on Baca Float No. 3, in the State of Arizona, having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

This bill simply conveys the right to those entrymen who, prior to June 22, 1914, had been granted patent or patents or patent certificates under the homestead or pre-emption laws for land within the limits of the tract known as Baca Float No. 3, in the State of Arizona, their patentees, assigns, and legal representatives, authority to select land of equal value in lieu of that from which they were evicted by the courts by reason of prior grant to the legal representative of Luis Maria Baca.

The letter of the Secretary of the Interior recommending this legislation is made a part of this report:

DEPARTMENT OF THE INTERIOR,  
Washington, June 25, 1919.

Hon. REED SMOOT,  
Chairman Committee on Public Lands,  
United States Senate.

MY DEAR SENATOR: I have the honor to submit the following information with respect to Senate bill No. 72, entitled "A bill for the relief of settlers on Baca Float grant No. 3, in the State of Arizona," and is identical with Senate bill 5332, Sixty-fifth Congress, which was received so near the end of the session that the department was unable to complete the examination of the records and the preparation of a report before the close of that Congress.

The bill relates to a tract in Arizona, containing 99,289.39 acres, more or less, located by the legal representatives of Luis Maria Baca, under the provisions of an act approved June 21, 1860 (12 Stat., 71), to which the legal title passed at the date of the approval of the location, April 9, 1864. Subsequently the location of the grant was held to be incomplete and invalid, and the status of Baca Float No. 3 has been the subject of numerous instructions and decisions in the land department, until the decree of the Supreme Court of the United States, rendered June 22, 1914 (*Lane et al. v. Watts et al.*, 234 U. S., 525; and on review, 235 U. S., 17), enjoining the Secretary of the Interior, his successors, and subordinates from any further action in the matter.

Within that tract 18 homestead and cash entries have been patented, and 41 homestead entries have been allowed, but have not been patented. Nine homestead entries have been canceled for various reasons. As nearly all of these entries are for land, claimed as a part of the Tumacacori and Calabazas land claims, and reserved from entry from 1884 until after the rejection of those claims, May 31, 1898, by the Supreme Court (a date later than that fixed in the bill for the initiation of rights thereunder), a brief recital of the proceedings in the land department in connection with this claim is submitted, accompanied by a list of the entries and the draft of a bill.

#### HISTORY OF BACA FLOAT NO. 3.

It appears from the record that on October 31, 1862, John S. Watts, for the heirs and legal representatives of Luis Maria Baca, filed the third of five selections under the act of June 21, 1860 (*supra*), for a tract of land on the River Pecos, at a place known as Bosque Redondo, situated in New Mexico. Before approval permission was granted him to withdraw the selection, and that location has no bearing upon subsequent proceedings, except that the right became known as Baca Float No. 3, thereafter.

On June 17, 1863, John S. Watts, as attorney for the heirs of Baca, filed his selection for the land in controversy, describing it by courses and distances from an initial point located with reference to a natural object, Salero Mountain, in Arizona. After some correspondence relative to the character of the land, on April 9, 1864, the Commissioner of the General Land Office approved the location and issued instructions for the survey of the grant at the expense of the claimants, stating:

"Transcripts of the field notes and plats, certified in accordance with the requirements of the law, will be transmitted to this office and will constitute the muniments of title, the law not requiring the issue of patents on these claims."

On April 30, 1866, John S. Watts filed an amended description of the land intended to be located, and the order of survey was renewed, but the survey was never made under the amended description.

August 15, 1877, John H. Watts, as son and heir and as attorney for the other heirs of John S. Watts, claiming ownership of the grant, requested permission to relocate the claim on other land. The request was denied by the Commissioner of the General Land Office, September 20, 1877, for the reason that the right of selection was limited to the period of three years from the date of the act. Under date of October 10, 1877, Charles D. Poston, claiming as assignee of the heirs of Baca, made a similar request.

A bill (S. 79) to permit the relocation of Baca Float No. 3 was introduced by request during the Forty-seventh and Forty-eighth Congresses, and on January 25, 1885, the Senate Committee on Private Land Claims reported adversely on said bill, and it failed of passage.

On February 13, 1885, John C. Robinson, as owner, filed in the General Land Office an application to relocate this claim, and under date of March 12, 1885, the then acting commissioner instructed the surveyor general to permit the said Robinson to reselect other lands in the name of the heirs of Luis Maria Baca.

On July 13, 1886, the then Commissioner of the General Land Office overruled, reversed, and declined to follow the permission so granted; and on appeal by the claimants, the Secretary of the Interior held (June 15, 1887, 5 L. D. 705), that the instructions of March 12, 1885, were without authority and therefore void, and that the claimants must be held to the location of June 17, 1863, as amended April 30, 1866.

December 21, 1888, the attorney for the said Robinson filed a formal application with the commissioner for the survey of the grant, and in a communication dated March 5, 1889, the surveyor general of Arizona was directed to order a hearing to determine the known character of the land at the date of the selection, and to make a preliminary survey of the outboundaries of the claim, upon payment of the cost thereof, to aid in the determination of the question submitted. Whereupon said Robinson appealed to the Secretary of the Interior, who, on June 24, 1891 (12 L. D. 676), affirmed the action of the commissioner in ordering said hearing, and a motion for review was overruled November 28, 1891 (13 L. D. 624).

Under date of May 6, 1899, the Commissioner of the General Land Office transmitted to this department the application of the then alleged owners of the grant for the survey of said Float; and on July 25, 1899 (29 L. D. 44), the department recalled and vacated the order for a hearing and directed that a survey of the claim be made by the surveyor general in accordance with the description given in the selection of June 17, 1863. The department found from the information submitted that it was not simply a "mistake in the initial point" of the selection that was sought to be corrected by the application of 1866, as therein suggested, but a complete change of the selection was thereby asked for, including as well the courses of the exterior lines of the claim, as the "initial point" thereof. It appeared from diagrams prepared to show the proximate position on the face of the earth of the two locations that the amended application of 1866 was for land that lies almost wholly to the east and north of the location as made June 17, 1863, and that it included but a very small portion in the northeast corner of the land within the limits of the original location; and that it was in fact a relocation and not an amended description.

During all of the time from April 30, 1866, to July 25, 1899, the land claimed by the heirs of Baca, or their alleged assigns, was that embraced by the amended location of April 30, 1866, and no assertion or claim whatsoever was made during said time to the lands covered by or included in the selection of June 17, 1863. The outboundaries of the grant as located in 1863 form a square and include all of one township and adjacent portions of the surrounding townships, being townships 21, 22, and 23 south, ranges 13, 14, and 15 east, in Arizona.

Townships 21, 22, and 23 south, range 13 east, and parts of townships 21 and 22 south, range 14 east, and township 22 south, range 15 east, were surveyed in 1876 and plats approved February 19, 1877. The land included in these surveys lies wholly outside of the amended application of 1866. Under date of March 11, 1878, instructions were given for the suspension of these plats pending consideration of pending private land claims. In 1884 supplemental township plats were prepared by the surveyor general to show the proximate location of the Tumacacori, the Calabazas, and the San Jose de Sonoita claims, and instructions were given that sections falling wholly outside of those claims might be disposed of. The first map of Arizona showing the relative location of Baca Float No. 3 was the edition of 1903, issued by the General Land Office, although the relative locations of the private land claims were shown on the earlier maps.

The Tumacacori and Calabazas claims were based on the sale April 18, 1844, of abandoned mission lands by the treasury department of the Mexican State of Sonora.



Under the terms of the act of July 22, 1854 (10 Stat., 308), a petition for the confirmation of these grants was filed June 9, 1864, with the surveyor general of Arizona, who recommended confirmation of said grants. Under the provisions of the act of March 3, 1891 (26 Stat., 854), proceedings for the confirmation of these grants were instituted in the Court of Private Land Claims and resulted in a decree that the sale aforesaid was void for want of authority in the treasury department of Sonora to make it and the decree of rejection was affirmed by the Supreme Court of the United States May 31, 1898. (*Faxon v. U. S.*, 171 U. S., 244.)

The San Jose de Sonoita Grant was based on the sale by the Mexican Government in 1821 of the land involved, and a petition for its confirmation was filed December 30, 1879, with the surveyor general of Arizona. A suit involving the validity of the grant was instituted in the Court of Private Land Claims and the decree of rejection was reversed by the United States Supreme Court on appeal and the grant sustained to the extent of 1½ sitios in a decision rendered May 31, 1898 (*Ely's Admr. v. U. S.*, 171 U. S. 220).

After the rejection of the above claims homestead entries were made at the local office in 1899 and later, a list of which is submitted herewith, which was filed as Exhibit A in the reply of the Government to the suit instituted in the courts by the Baca Float claimants.

The whole subject of the validity of Baca Float No. 3, with particular reference to its conflict with the private land claims and to the homestead applications and with particular reference to the survey of the Float and the segregation of the land within the private land claims, which was in conflict therewith, was the subject of decisions by the Secretary of the Interior on June 30, 1900 (30 L. D. 97), March 5, 1901 (30 L. D. 497), and December 28, 1904 (unreported). The Float claimants having failed to deposit the cost of survey, a requirement insisted on by the department, the survey was ordered for the purpose of making proper disposition of the pending homestead applications for land held in said decisions as having been excepted from the location of Baca Float No. 3. Survey was made of the land selected in 1863 by Philip Contzen, deputy surveyor, and the plats and field notes filed in the office of the surveyor general November 23, 1906. The survey developed the fact that the conflicting private land claims contained 30,408.83 acres within the exterior lines of the Float, which embraces also 125.60 acres of the town site of Tubac, a settled community prior to 1863.

While the said survey was in progress the surveyor general made examination of the character of the land and took evidence, and in view of such examination and of the testimony adduced, on November 5, 1906, he reported to the department his recommendation that the selection be rejected in its entirety as not being subject to the provisions of the act of June 21, 1860, *supra*.

From the decision of May 16, 1907, by the Commissioner of the General Land Office, affirming the report and recommendation of the surveyor general, the claimant appealed, and on June 2, 1908 (36 L. D., 455), the department rendered a decision holding that the final act by which title passes under the grant made by section 6 of the act of June 21, 1860, *supra*, is the acceptance by the department and the filing of an approved plat and field notes of survey and that the lands involved were not subject to such selection, which was thereupon finally rejected. A motion for review was filed, and overruled December 5, 1908 (37 L. D., 391), and thereafter the claimants brought proceedings in the Supreme Court of the District of Columbia, and from the decision of that court and the Court of Appeals of the District of Columbia an appeal was taken by the Secretary of the Interior to the Supreme Court of the United States. The issues involved were stated in the opinion of the court in the following language (234 U. S., 525, 538):

"The crux of the case in the views of the courts below is the question whether title to the lands passed out of the United States in April, 1864, and the careful and elaborate consideration of it makes the discussion of it mere repetition.

"The contentions of the parties are very accurately opposed. Appellants contend that 'under a proper construction of the act of June 21, 1860, title to the Float can not pass until there has been an official survey and a final determination by the proper officers that the land selected in 1863 was of the character which the statute permitted the heirs to take—a matter still sub judice in the department' except as to certain conflicting grants. The appellees insist, and the courts below, as we have seen, decided, that the location of the grant and the approval of it by the surveyor general of New Mexico, and subsequently in April, 1864, by Commissioner Edmunds, of the Land Office, transferred the title to the heirs of Baca.

\* \* \* \* \*

"Another contention is made on the conflict of the grant as located with other grants, to which the court of appeals replied that it was not now concerned with such

question, and that if, as suggested, a controversy should arise, it 'will properly be adjudicated in the courts where the lands are located.' In this we concur."

Under the decree of the Court of Appeals of the District of Columbia, affirmed by the Supreme Court of the United States, the Secretary of the Interior and the Commissioner of the General Land Office, their successors and subordinates, are enjoined from proceeding in any manner in the matter of the homestead entries set out in Exhibit A to the answer in said proceedings, or in any other matter affecting said land, except to file the plat of survey and field notes as therein directed.

In connection with Senate bill 2310, Forty-seventh Congress, second session, the then claimant of Baca Float No. 3, John C. Robinson, made the following statements in support of a bill authorizing the issuance to him of scrip in lieu of the grant.

"The land which was sought to be located under the particular grant to the son of Baca, has now by a lapse of time been covered by what in common parlance are called squatters. Parcels have been preempted, sold, and otherwise appropriated, so that Government can not give with any degree of safety or good faith that which has been located and partly surveyed at the expense of the grantee, as aforesaid, and if it did, I would only be turned over to a doubtful and expensive litigation with 700 or 800 squatters, preemptors, and some people who have purchased in good faith here and there in the most desirable locations on the grant, which at my time of life, with my infirmities, having but one leg, and suffering from the effects of wounds, render it impossible for me to attend to such a litigation \* \* \*."

While the foregoing statements were made with reference to the amended location of 1866, which includes only a part of the land involved, it is probably equally true of the original location. Under date of May 8, 1893 (16 L. D. 408), the department considered the petition and protest of settlers upon the land within the Tumacacori and Calabazas claims and reversed the decision of the Commissioner of the General Land Office directing that the reservation under those claims be "expunged" from the records and the land opened to entry. John C. Robinson claimed title to Baca Float No. 3 from the Santa Rita Land & Mining Co., claiming by purchase from the Baca heirs, and that that company also claimed title to the Tumacacori and Calabazas claims as purchasers (*Astiazaran v. Santa Rita Land & Mining Co.*, 148 U. S. 83).

It is a well-settled principle of the public-land laws, recognized by the courts and by the department, that no rights can be initiated or acquired by settlement upon land reserved from entry. Such recognition would encourage trespassers and intruders upon withdrawals and reservations by the Government and upon the land of private owners.

#### CONCLUSION.

Senate bill 72 does not limit the relief to persons who have made entry or to settlers who established a bona fide residence upon, cultivated the land, and fully complied with the homestead laws without other claim of title, at a time when the land was subject to settlement and entry under the rulings of the Land Department; nor does the bill limit the period within which such relief shall be applied for.

The bill places the burden and expense of securing this proof upon the Secretary of the Interior, although the law and regulations require proof to be submitted by entrymen at their expense, and the omission of a definite period within which such claims are to be determined would permit claims to be made at any time in the future when the records and evidence for the protection of the Government may not be available.

As the legal title to the land involved was vested in the heirs of Baca by the approval of the location April 9, 1864, from which date the Territorial and State statutes of limitations became effective, the extension of relief to persons who have held continuous adverse possession for 25 years may operate to enlarge the area which the grant claimants can now recover at law.

The Land Department has no information with respect to which of the entrymen and settlers may have been evicted by the local courts. It is believed that a bill should be passed permitting those who have received patents and their legal representatives in privity of title with them to transfer and amend their entries to other surveyed, nonmineral, unoccupied public land of equal area, and to permit bona fide homestead settlers relying upon the rulings of the department to make second homestead entries and receive credit for the residence and cultivation of their original entries in connection therewith.

#### INCLOSURES.

A bill suggestive of the views of this department has been drafted and is herewith transmitted. The procedure therein indicated is such as will adapt itself readily to the prevailing practices in the department.

There is also transmitted a list of the conflicting patented homestead entries and suspended entries which have not been relinquished, verified, and corrected from the list filed with the answer of the Government in *Lane v. Watts*, supra.

A diagram <sup>1</sup> of the area involved, showing graphically the conflicts referred to, has been prepared in the General Land Office and photostat copies thereof are inclosed.

Cordially, yours,

ALEXANDER T. VOGELSANG,  
*Acting Secretary.*

#### EXHIBIT.

Following is a list of entries wholly or partly within the exterior limits of Baca Float No. 3, Arizona:

Tucson H. E. 3001, January 27, 1899, Timoteo Fierros, E.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  and N.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 7, T. 23 S., R. 14 E., 160 acres, in total conflict.

Tucson H. E. 3005 (Phoenix 01095), January 27, 1899, Joaquin S. Acevedo, SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 7, SW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 8, N.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  sec. 17, T. 23 S., R. 14 E., 160 acres, in total conflict.

Tucson H. E. 3008 (Phoenix 01096), January 27, 1899, Cornelio S. Acevedo, NE.  $\frac{1}{4}$  sec. 17, T. 23 S., R. 14 E., 160 acres, in conflict as to 112.39 acres.

Tucson H. E. 3011 (Phoenix 02699), January 30, 1899, Isabella N. Mercer, E.  $\frac{1}{2}$  NE.  $\frac{1}{4}$  sec. 27, E.  $\frac{1}{2}$  SE.  $\frac{1}{4}$  sec. 22, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3012 (Phoenix 01003), January 30, 1899, Morgan R. Wise, NE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 27, W.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  and SE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 26, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3013 (Phoenix 01060), January 30, 1899, George W. Atkinson, SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 35, T. 22 S., R. 13 E., N.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  and SW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  sec. 2, T. 23 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3014 (Phoenix 01534), January 30, 1899, Edwin Egan, SW.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$  and NW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 1, SE.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 2, T. 23 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3015 (Phoenix 02700), January 30, 1899, Thomas D. Casanegra, N.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 35, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3017 (Phoenix 02701), January 30, 1899, Jose Altamirano, SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , sec. 35, T. 22 S., R. 13 E., 40 acres, in total conflict.

Tucson H. E. 3018 (Phoenix 01001), January 30, 1899, Joseph E. Wise, E.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$ , W.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  sec. 35, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3019 (Phoenix 01698), January 30, 1899, Guadalupe Vasquez, E.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$ , W.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 1, T. 23 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3020 (Phoenix 0851), January 30, 1899, Francisco Q. Acevedo, E.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$ , S.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$ , sec. 1, T. 23 S., R. 13 E., 160.12 acres, in total conflict.

Tucson H. E. 3021 (Phoenix 01791), January 30, 1899, Benjamin Acevedo, E.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 1, T. 23 S., R. 13 E., 80 acres, in total conflict.

Tucson H. E. 3024 (Phoenix 0511), February 2, 1899, Henry Ohm, N.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 9, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3029 (Phoenix 0856), February 6, 1899, David J. Cumming, S.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  sec. 15, E.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  sec. 22, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3030, February 6, 1899, F. C. 1384, September 30, 1904, Roman Ramirez, SE.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 31, SW.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 32, T. 21 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3034 (Phoenix 01535), February 7, 1899, George R. McCorkle, NE.  $\frac{1}{4}$  of sec. 12, T. 23 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3028 (Phoenix 0917), February 10, 1899, Fidel Silbas, W.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 2, T. 23 S., R. 13 E., 80 acres, in total conflict.

Tucson H. E. 3043 (Phoenix 01533), February 13, 1899, William H. Walker, E.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$ , W.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  sec. 27, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3056 (Phoenix 01697), February 20, 1899, Lorenzo Aguayo, S.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 5, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3070 (Phoenix 02706), March 17, 1899, Tirso Trujillo, S.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 27, T. 22 S., R. 13 E., 120 acres, in total conflict.

Tucson H. E. 3089 (Phoenix 02711), April 11, 1899, Leon Silvas, N.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  sec. 15, T. 22 S., R. 13 E., 80 acres, in total conflict.

<sup>1</sup>Not printed.

Tucson H. E. 3028 (Phoenix 0917), February 1, 1899, Demetrio Barrios, NW.  $\frac{1}{4}$  sec. 9, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3072 (Phoenix 02707), March 20, 1899, Jose Maria Valdez, NE.  $\frac{1}{4}$  of sec. 34, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3073 (Phoenix 01002), March 22, 1899, Antonio Moreno, lots 3 and 4 and S.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  sec. 2, T. 23 S., R. 13 E., 160.96 acres, in total conflict.

Tucson H. E. 3077 (Phoenix 02708), March 23, 1899, Apolonio Valdez, S.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  sec. 32, T. 21 S., R. 13 E., and lots 3 and 4, sec. 5, T. 22 S., R. 13 E., 160.43 acres, in total conflict.

Tucson H. E. 3078 (Phoenix 02709), March 24, 1899, Francisco Moreno, W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  sec. 22, E.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  sec. 21, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3084 (Phoenix 02710), March 29, 1899, Josephine A. Saxon, W.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$ , E.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  sec. 31, T. 22 S., R. 14 E., 160 acres, in total conflict.

Tucson H. E. 3130 (Phoenix 01956), July 10, 1899, Manuel Contreras, NE.  $\frac{1}{4}$  of sec. 9, T. 22 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3301, May 14, 1900, Phoenix F. C. 149, July 25, 1907, John F. Black, SE.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  sec. 19, S.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  and SW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  sec. 20, T. 21 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 3987, September 6, 1901, Phoenix F. C. 159, August 8, 1907, Manuel King, S.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  sec. 29, N.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  sec. 32, T. 21 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 4039 (Phoenix 02737), November 5, 1901, Santiago Madril, SW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 31, T. 21 S., R. 13 E., 160 acres, in conflict as to 137.29 acres.

Tucson H. E. 4339, November 28, 1902, Phoenix F. C. 299, June 12, 1908, Jose Villa, SE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , sec. 19, NW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  of NW.  $\frac{1}{4}$ , sec. 30, T. 21 S., R. 13 E., 160 acres, in conflict as to 56.98 acres.

Tucson H. E. 4576 (Phoenix 02867), May 22, 1903, Raymond H. y Samano, SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 5, N.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  and NW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  sec. 8, T. 23 S., R. 13 E., 160 acres, in total conflict.

Tucson H. E. 4694, September 5, 1903, Phoenix F. C. 292, June 2, 1908, Francisco Arballo, SE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 5, T. 22 S., R. 13 E., 40 acres, in total conflict.

Tucson H. E. 5020, August 24, 1904, Phoenix F. C. 034, July 3, 1908, Walter E. La Plante, W.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 17, T. 21 S., R. 13 E., 80 acres, in total conflict.

Tucson T. C. E. 948, March 27, 1890, Jose A. Burruel, W.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 17, T. 21 S., R. 13 E., 80 acres. In total conflict with Tucson H. E. 5020, Phoenix F. C. 034, above.

Phoenix H. E. 07895, January 5, 1910, Francisco Valdez, S.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 31, T. 21 S., R. 13 E., and lots 1 and 2, sec. 6, T. 22 S., R. 13 E., 161.24 acres in conflict as to 139.32.

Phoenix H. E. 09238, March 2, 1910, Candido T. Valdez, SE.  $\frac{1}{4}$  NW.  $\frac{1}{4}$  and NE.  $\frac{1}{4}$  SW.  $\frac{1}{4}$ , sec. 32, T. 21 S., R. 13 E., 80 acres, in total conflict.

Phoenix H. E. 08986, February 9, 1910, Wilson B. Barringer, E.  $\frac{1}{2}$  SW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  SE.  $\frac{1}{4}$  sec. 20, NE.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , sec. 29, T. 21 S., R. 13 E., 160 acres, in total conflict.

Phoenix H. E. 012991, February 14, 1911, Romolo Alegria, SE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , sec. 6, SW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  SW.  $\frac{1}{4}$ , sec. 5, T. 22 S., R. 13 E., 120 acres, in total conflict.

Phoenix H. E. 013591, March 2, 1911, Miguel Tanori, NE.  $\frac{1}{4}$  SW.  $\frac{1}{4}$ , sec. 29, T. 21 S., R. 13 E., 40 acres, in total conflict.

All of above are unpatented and are suspended because of Baca Float No. 3.

Florence Cash, No. 140, November 14, 1878, Francisca Day, administratrix of the estate of John Day, deceased, NE.  $\frac{1}{4}$  of sec. 30, T. 22 S., R. 15 E., 160 acres, patented December 30, 1879, in total conflict.

Florence Cash, No. 175, March 30, 1880, Robert V. Bloxton, S.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$ , S.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$ , sec. 20, T. 22 S., R. 15 E., 160 acres, patented January 23, 1897, in conflict as to about 20 acres. Entire entry in conflict with San Jose de Sonoita grant, which is superior to Baca Float No. 3.

Tucson C. E. 214, June 14, 1882, John S. Wood, as probate judge, in trust for the occupants of Tubac town site, SW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 8, SE.  $\frac{1}{4}$  SE.  $\frac{1}{4}$  sec. 7, NE.  $\frac{1}{4}$  NE.  $\frac{1}{4}$  sec. 18, NW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$  sec. 17, T. 21 S., R. 13 E., 160 acres, patented December 30, 1884, in conflict as to 125.60 acres.

Tucson C. E. 298, August 10, 1885, Thomas J. Moraghan, W.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  sec. 19, T. 21 S., R. 13 E., 80 acres, patented April 19, 1897, in conflict as to 57.97 acres.

Tucson C. E. 208, February 27, 1882, Henry B. Guinn, NW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 35, N.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$ , NE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 34, T. 22 S., R. 14 E., 160 acres, patented January 29, 1897, in total conflict.



Tucson C. E. 207, February 27, 1882, George W. Stevens, NW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 34, N.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  sec. 33, T. 22 S., R. 14 E., 160 acres, patented January 29, 1897, in total conflict.

Tucson C. E. 614, February 18, 1889, Thomas Forsyth, SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 33, S.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 34, T. 22 S., R. 14 E., 160 acres, patented June 29, 1891, in total conflict.

Tucson 661, September 27, 1886, F. C. 663, April 28, 1894, Jose Maria Mabis, SE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  sec. 8, E.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  NW.  $\frac{1}{4}$  sec. 17, T. 21 S., R. 13 E., 160 acres, patented May 22, 1895, in total conflict.

Tucson H. E. 693, December 28, 1886, F. C. 751, April 10, 1896, Luis Acuna, SE.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , E.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 18, T. 21 S., R. 13 E., 120 acres, patented July 9, 1896, in total conflict.

Tucson H. E. 1441, October 16, 1890, F. C. 746, March 11, 1896, Sarah E. Burruel, SW.  $\frac{1}{4}$  of sec. 17, T. 21 S., R. 13 E., 160 acres, patented July 11, 1896, in total conflict.

Tucson H. E. 3027, February 3, 1899, F. C. 1320, November 5, 1903, Maria Low, NE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  sec. 30, NW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$ , W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  sec. 29, T. 21, S., R. 13 E., 160 acres, patented October 10, 1905, in total conflict.

Tucson H. E. 3031, February 6, 1899, F. C. 1338, February 3, 1904, Ynez Andrez, E.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$  sec. 19, W.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  sec. 20, T. 21 S., R. 13 E., 160 acres, patented January 30, 1905, in total conflict.

Tucson H. E. 3035, February 7, 1899, Phoenix F. C. 290, June 2, 1908, Carmen Mendez, N.  $\frac{1}{2}$  of SE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , S.  $\frac{1}{2}$  of SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , E.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , W.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$  of SW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$  of sec. 30, and N.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$  sec. 31, T. 21 S., R. 13 E., 150 acres, patented December 14, 1908, in conflict as to 115.59 acres.

Tucson H. E. 3051, February 16, 1899, F. C. 1217, September 22, 1902, Tomas Cota, NE.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , S.  $\frac{1}{2}$  of NE.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  of SE.  $\frac{1}{4}$ , sec. 30, T. 21 S., R. 13 E., 160 acres, patented May 27, 1903, in conflict as to 136.52 acres.

Tucson H. E. 3300, May 14, 1900, F. C. 1029, July 5, 1900, Mary L. Tenley, NE.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$  sec. 19, N.  $\frac{1}{2}$  of NW.  $\frac{1}{4}$ , NW.  $\frac{1}{4}$  of NE.  $\frac{1}{4}$ , sec. 20, T. 21 S., R. 13 E., 160 acres, patented December 17, 1900.

Phoenix H. E. 0918 (old 3041), February 13, 1899, Jesus Arviso, NE.  $\frac{1}{4}$  sec. 8, T. 22 S., R. 13 E., 160 acres, F. C. November 13, 1908, patent 60414, May 11, 1909, in total conflict.

Phoenix H. E. 02035, December 19, 1908, Evaristo L. Gomes, W.  $\frac{1}{2}$  SE.  $\frac{1}{4}$ , SW.  $\frac{1}{4}$  NE.  $\frac{1}{4}$ , SE.  $\frac{1}{4}$  NW.  $\frac{1}{4}$  sec. 18, T. 21 S., R. 13 E., 160 acres, patent No. 437976, October 24, 1914, in conflict as to 96.48 acres.

Phoenix H. E. 015786, October 12, 1911, William L. Lowe, W.  $\frac{1}{2}$  NE.  $\frac{1}{4}$  sec. 17, T. 21 S., R. 13 E., 80 acres, F. C. May 20, 1915, patent 436022, August 6, 1915, in total conflict.

The above list shows 41 unpatented entries, conflicting as to 5,527.49 acres, and 18 patented entries conflicting as to 2,352.16 acres, a total conflict of patented and unpatented entries being 7,879.65 acres.

It will be noted that Florence Cash entry 175, patented December 30, 1879, is in total conflict with the San Jose de Sonita grant, which was confirmed by the court of private land claims under the act of March 3, 1891 (26 Stat. 854), and patented October 29, 1906. The grant as patented includes 1,949.68 acres within the survey of Baca Float No. 3.

The Tumacacori and Calabazas claims, which were rejected by the United States Supreme Court (Faxon v. U. S., 171 U. S. 244), are shown by the plat of survey of Baca Float No. 3 to be in conflict therewith to the extent of 28,459.15 acres.

The following nine homestead entries, made at Tucson, Ariz., have been relinquished or canceled for various causes since the injunction proceedings were instituted in the courts of the District of Columbia by the Baca Float claimants:

H. E. No. 3007 (Phoenix 02698), January 27, 1899, Francisco A. Acededo.

H. E. No. 3025 (Phoenix 02702), February 2, 1899, Francisco Moreno.

H. E. No. 3026, February 13, 1899, John A. Lucas.

H. E. No. 3044 (Phoenix 03582), February 13, 1899, Harvey S. Walker.

H. E. 3045 (Phoenix 0390), February 13, 1899, Robert J. Good.

H. E. No. 3086 (Phoenix 01299), April 6, 1899, Lucia J. Sykes.

H. E. No. 3121 (Phoenix 02713), July 1, 1899, Tangino Sanchez.

H. E. No. 4106 (Phoenix 02748), January 24, 1902, Antonio Ruiz.

H. E. No. 4755 (Phoenix 02943), October 26, 1903, Alberto Madril.

Phoenix H. E. No. 1753 (04429), June 15, 1908, Miguel Sinohui.

This list does not include homestead applications which have been filed and rejected, or suspended and not allowed, because of conflict with Baca Float No. 3.

Nor does it include mineral entries and applications for patent to mineral lands within the survey of Baca Float No. 3.

The bill, as amended, will read as follows:

[H. R. 2422, Sixty-seventh Congress, first session.]

A BILL For the relief of settlers and entrymen on Baca Float Numbered Three, in the State of Arizona.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,* That where, prior to December 13, 1917, patents or patent certificates have issued under the homestead laws or preemption laws for land within the limits of a tract known as Baca Float Numbered Three, in the State of Arizona, and the patentees, their assigns, and legal representatives have been evicted by the local courts by reason of the prior grant to the legal representative of Luis Maria Baca, the patentee, his assigns or his legal representative, who under the laws and regulations would have been entitled to the return of the purchase money, fees and commissions, shall be entitled to select in lieu thereof not exceeding twice the area of the lands lost, of any nonmineral unoccupied surveyed public lands in the State of Arizona subject to homestead entry.

SEC. 2. That where any person had made homestead entry for land within Baca Float Numbered Three, and had fully complied with the homestead laws thereon as to residence and cultivation prior to June 22, 1914, in the bona fide belief that the land was public land, and has been evicted therefrom or prevented from making final entry by reason of the prior grant, said homestead entryman, or, in the case of his or her death, the successor to the right of entry under the homestead laws shall be permitted to make second homestead entry for other land, situate in the State of Arizona and not exceeding twice the area of the original homestead entry lost as herein set forth, subject to the conditions, limitations, and benefits of the homestead laws applicable to such land; and upon submission of proof under his original entry that he had fully complied with the law as to residence and cultivation, shall on approval of such proof and payment at the office of second entry for the final fees and commissions due on a final entry for the land entered, receive a final certificate and patent without further residence and cultivation of the land embraced in the second entry.

SEC. 3. That the right of selection and second entry hereby granted shall not be assignable, directly or through irrevocable power of attorney, and must be exercised within three years after the passage of this act by the persons entitled to such relief, or, in the case of the death of a homestead entryman who has not submitted final proof and received his final certificate, by the person or persons succeeding to his right of entry under the homestead laws: *And provided*, That no persons acquiring said land by sale or conveyance subsequent to December 13, 1917, shall be recognized, and the applicant shall submit proof that he has not sold, assigned, nor relinquished his homestead nor entered into any contract or agreement to sell, assign, or relinquish the same, nor abandoned the land for a valuable consideration; also that the land sought to be selected is for applicant's own exclusive use and benefit, and that he has not sold or contracted to sell, directly or indirectly, said selected land: *And provided further*, That the entire right of reselection under each entry shall be exercised at the same time, under such rules and regulations as the Secretary of the Interior may prescribe, and on approval of the selection patent shall issue as on other entries.

