

"The Osage Indian trust and diminished reserve lands in the State of Kansas, excepting the sixteenth and thirty-sixth sections in each township, shall be subject to disposal for cash only to actual settlers, in quantities not exceeding one hundred and sixty acres or one quarter section to each in compact form, in accordance with the general principles of the pre-emption laws, under the direction of the Commissioner of the General Land Office; but claimants shall file their declaratory statements as prescribed in other cases upon unoffered lands," &c., &c.

It is clear from the foregoing that one settler can only purchase 160 acres of land, and that such a sale can only be initiated by the settler making a declaratory statement. What is this declaratory statement? It is in the nature of a contract for the sale of land. The settler declares his intention of taking the land under the provisions of the pre-emption act of September 4th, 1841, and the Government promises him that on the fulfillment of certain conditions he shall have a title by patent for the land. When the settler makes this declaratory statement he pays to the Receiver of the Land Office a fee of two dollars. This is collected by authority of paragraph 1 of section 2238, R. S., which provides that Registers and Receivers shall each receive a fee of one dollar on the filing of the instrument. We suppose this fee is collected for the purpose of reimbursing the Land Officers for their labor, and for the further reason that no promise can be enforced without a consideration. When the declaratory statement is filed the contract is completed, the Government as a trustee covenants with the settler for the sale of the Osage land, the consideration is agreed upon, and the advance amount of two dollars is paid. This transaction has all of the elementary proceedings of a sale. We might concede that this two dollars was the property of the Register and Receiver but for the provisions of section 3617, R. S., which provides that the gross amount of money received shall be covered into the