

NEW NORTH-WEST.

DEER LODGE CITY, FRIDAY, NOV. 5.

Important Information for Settlers.

Clear and Concise Statement of Land Laws and Rules—How to Proceed Under the Pre-emption and Homestead Acts.

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From the Junction City, Kansas, Union.

For the benefit of settlers on public lands under the pre-emption and homestead acts, we publish the following rulings and decisions which must be observed by all persons who wish to avail themselves of the benefits of the above laws.

The pre-emption act of September 4th, 1841, provides that "every person being the head of a family, or widow, or a single man over the age of twenty-one years, and being a citizen of the United States, or having filed a declaration of intention to become a citizen, as required by the naturalization laws," is authorized to enter at the Land Office, 160 acres of the unappropriated Government land by complying with the requirements of said act.

It has been decided that an unmarried or single woman over the age of twenty years, not the head of a family, but able to meet all the requirements of the pre-emption law, has the right to claim its benefits.

The claimant must file his declaratory statement within three months from the date of settlement, and make proof and payment before the day designated in the President's Proclamation offering the lands at public sale.

Should the settler die before establishing his claim within the period limited by law, the title may be perfected by the executor or administrator, by making the requisite proof of settlement and cultivation, and paying the Government price; the entry to be made in the name of "the heirs" of the deceased settler.

When a person has filed his declaratory statement for one tract of land, it is not lawful for the same individual to file a second declaratory statement for another tract of land, unless the first filing was invalid in consequence of the land applied for, not being open to pre-emption, or by determination of the land against him, in case of contest, or from any other similar cause which would have prevented him from consummating a pre-emption under his declaratory statement.

Each qualified pre-emptor is permitted to enter 160 acres of lands, subject to pre-emption, by paying the Government price, \$1.25 per acre.

Final proof and payment cannot be made until the party has actually resided upon the land for a period of at least six months, and made the necessary cultivation and improvements to show his good faith as an actual settler. This proof can be made by one witness.

The party who makes the first settlement in person upon a tract of public land, is entitled to the right of pre-emption, provided he subsequently complies with all the requirements of the law—his right to the land commences from the date he performed the first on the land.

When a person has filed his declaratory statement for a tract of land, and afterwards relinquishes it to the Government, he forfeits his right to file again for another tract of land.

The assignment of a pre-emption right is null and void. Title to public land is not perfected until the issuance of the patent from the General Land Office, and all sales and transfers prior to the date of the patent, are in violation of law.

The act of March 27, 1854, protects the right of settlers on sections along the line of railroads, when settlement was made prior to the withdrawal of the lands, and in such case allows the land to be pre-empted and paid for at \$1.25 per acre, by furnishing proof of inhabitancy and cultivation, and as required under the act of September 4th, 1841.

The Homestead act of May 20, 1862, provides "that any person who is the head of a family, or who has arrived at the age of twenty-one, and is a citizen of the United States, or who shall have filed his declaration of intention to become such, as required by the naturalization laws of the United States, and who has never borne arms against the United States Government, or given aid and comfort to its enemies, shall be entitled to enter one quarter section or a less quantity of unappropriated public land."

Under this act 160 acres of land subject to pre-emption at \$1.25 per acre can be entered upon application, by making affidavit "that he or she is the head of a family, or is twenty-one years of age or shall have performed service in the army or navy of the United States, and that such application is made for his or her exclusive use or benefit, and that said entry is made for the purpose of actual settlement and cultivation, and not either directly or indirectly, for the use and benefit of any other person or persons who-soever." On filing said affidavit and payment of fees and commissions, the entry will be permitted.

Notwithstanding will be given, or patent issued, until the expiration of five years from the date of said entry; and if, at the expiration of such time, or at any other time within two years thereafter, the person making such entry—or if he be dead, his widow; or in case of her death, his heirs or devise; or in case of a widow making such entry, her heirs or devise, in case of her death—shall prove by two credible witnesses that he or she have resided upon and cultivated the same for the term of five years immediately succeeding the date of filing the above affidavit, and shall make affidavit that no part of said land has been alienated and that he has borne true allegiance to the Government of the United States; then he or she, if at that time a citizen of the United States, shall be entitled to a patent. In case of death of both father and mother, leaving no infant child or children under twenty-one years of age, the right and fee shall inure to the benefit of said infant or children; and the executor, administrator or guardian may, at any time after the death of the surviving parent, and in accordance with the

law of the State in which such children for the time being have their domicile, sell said land for the benefit of said infants, but for no other purpose; and the purchaser shall acquire the absolute title from the Government, and be entitled to a patent.

When a homestead settler has failed to commence his residence upon land so as to enable him to make a continuous residence of five years within the time (seven years) limited by the law, he will be permitted, upon filing an affidavit showing a sufficient reason for his neglect, to date his residence at the time he actually commenced such inhabitancy, and will be required to live upon the land five years from said date, provided no adverse claim has attached to said land, and the affidavit of the settler is supported by the testimony of disinterested witnesses.

In the second section of the act of May 20, 1862, it is stipulated in regard to settlers, that in case of the death of both father and mother, leaving an infant child, or children, under twenty-one years of age, the right and fee shall inure to the benefit of the infant child or children; and that the executor, administrator, or guardian, may sell the land for the benefit of the infant heirs at any time within two years after the death of the surviving parent, and in accordance with the law of the Territory or State. The Commissioner rules that instead of selling the land as above provided, the heirs may, if they so select, continue residence and cultivate on the land for the period required by law, at the expiration of the time provided, a patent will be issued in their names.

In case of the death of a homestead settler who leaves a widow and children, should the widow again marry and continue her residence and cultivation upon the land entered in the name of her first husband for the period required by law, she will be permitted to make the final proof as the widow of the deceased settler and the patent will be issued in the name of "his heirs."

When a widow, or a single woman, has made a homestead entry, and thereafter marries a person who has also made a similar entry on another tract, it is ruled that the parties may select which tract they will retain for permanent residence, and will be allowed to enter the remaining tract under the 8th section of the act of May 20, 1862, on proof of inhabitancy and cultivation up to date of marriage.

In case of the death of a homestead settler, his heirs will be allowed to enter the land under the 8th section of the Homestead act, by making proof of inhabitancy and cultivation in the same manner as provided by the 2d section of the act of March 3, 1843, in regard to deceased pre-emptors.

The sale of a homestead claim by the settler to another is not recognized and vests no title or equities in the purchaser, and would be prima facie evidence of abandonment, and sufficient cause for cancellation of the entry.

The law allows but one homestead privilege, a settler who relinquishes or abandons his claim cannot thereafter make a second entry.

When a party has made settlement on a surveyed tract of land and filed his pre-emption declaration therefor, he may change his filing into a homestead.

If a homestead settler does not wish to remain five years on his tract, the law permits him to pay for it with cash or military warrants, upon making proof of residence and cultivation as required in pre-emption cases. The proof is made by the affidavit of the party and testimony of two credible witnesses.

There is another class of Homesteads, designated as "Adjoining Farm Homesteads." In these classes the law allows an applicant owning and residing on an original farm, to enter other land lying contiguous thereto, which shall not with such farm, exceed in the aggregate 160 acres. For example, a party owning or occupying 80 acres, may enter 80 acres additional. Or if the applicant own 40 acres, he may enter 120 if the land should be found contiguous to his original farm. In entries of "Adjoining Farms," the settler must describe in his affidavit, the tract he owns, and lives upon, as his original farm. Actual residence on the tract entered as an "adjoining farm," is not required, but bona fide improvement and cultivation of it must be shown for five years.

The right to a tract of land under the Homestead act, commences from the date of entry in the Land Office, and not from date of personal settlement as in case of pre-emption.

When a party makes an entry under the Homestead act, and thereafter, before the expiration of five years, makes satisfactory proof of inhabitancy and cultivation, and pays for the tract under the 8th section of said act, it is held to be a consummation of his homestead right as the act allows, and same pre-emption, and will be no bar to the next party, acquiring a pre-emption right, provided he can legally show his right in virtue of actual settlement and cultivation on another tract at a period subsequent to his proof and payment under the 8th section of the homestead act.

The 3d section of the act of May 20th, 1862, declares that after making proof of settlement cultivation, &c., "then if the party is at that time a citizen of the United States, he shall be entitled to a patent," this then, requires that all settlers shall be "citizens of the United States," at the time of making final proof, and they must file in the land office the proper evidence of that fact, before a final certificate will be issued.

A party who has proved up and paid for a tract of land under the pre-emption act, can subsequently enter another tract of land under the homestead act. Or a party who has consummated his right to a tract of land under the homestead act will afterwards be permitted to pre-empt another tract.

A settler who desires to relinquish his homestead must surrender his duplicate receipt, his relinquishment "to the United States," being endorsed thereon, if he has lost his receipt that fact must be stated in his relinquishment, to be signed by the settler, attested by two witnesses, acknowledged before the Register or Receiver, or Clerk of Notary Public using a seal.

When a homestead is contested, and application is made for cancellation, the party so applying must file an affidavit setting forth the facts on which his allegations are grounded, describing the tract and giving the name of the settler. A day will then set for

hearing the evidence, giving all parties due notice of the time and place of trial. It requires the testimony of two witnesses to establish the abandonment of a homestead entry.

The notice to a settler that his claim is contested must be served by a disinterested party, and in all cases when practicable, personal service must be made upon the settler.

Another entry of the land cannot be made in case of relinquishment or contest, until the cancellation is ordered by the Commissioner of the General Land Office.

When a party has made a mistake in the description of the land he desired to enter as a homestead, and desires to amend his application, he will be permitted to do so upon furnishing the testimony of two witnesses to the facts, and proving that he has made no improvements on the land described in his first application, but has made valuable improvements on the land that he first intended and now applies to enter.

It is important for a settler to bear in mind that it requires two witnesses to make final proof under the homestead act who can testify that the settler has resided upon and cultivated the tract for five years from the date of his entry.

Patents are not issued for lands until from one to two years after date of location in the District office. No patent will be delivered until the surrender of the duplicate receipt, unless such receipt should be lost, in which case an affidavit of the fact must be filed in the Register's office, showing how said loss occurred, also that said certificate has never been assigned, and that the holder is the bona fide owner of the land, and entitled to said patent.

By a careful examination of the foregoing requirements, settlers will be enabled to learn without a visit to the Land Office, the manner in which they can secure and perfect title to public lands under the pre-emption act of September 4, 1841, and homestead act of May 20, 1862.

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