

**INSTRUCTIONS
TO HOMESTEADERS
AND
RULES GOVERNING
HOMESTEAD ENTRIES**

**A SYNOPSIS
OF THE
HOMESTEAD
L A W S**

PRICE 25 CENTS

HOMESTEAD PRIVILEGE

Q *The laws of this country give to every citizen, and to those who have declared their intention to become citizens, the right to a homestead on surveyed lands of the public domain to the extent of 160 acres.*

Q *Under the Act of Congress February 19, 1909, 320 acre homesteads are allowed in certain districts subject to the classification and selection of the lands by the Secretary of the Interior, and large selections have been made in Eastern Montana and Wyoming.*



Q *Homeseekers should avail themselves of the homestead privilege before the desirable lands have all been appropriated and the opportunity to become an independent farmer through the medium of free lands is forever lost.*

*“These that I bring unto their
latest home.”*

SHAKESPERE.

INSTRUCTIONS TO HOMESTEADERS AND RULES GOVERNING HOMESTEAD ENTRIES.

1. Persons desiring to make homestead entries should first fully inform themselves as to the character and quality of the lands they desire to enter, and should in no case apply to enter until they have visited and fully examined each legal subdivision for which they make application, as satisfactory information as to the character and occupancy of public lands cannot be obtained in any other way.

As each applicant is required to swear that he is well acquainted with the character of the land described in his application, and as all entries are made subject to the rights of prior settlers, the applicant cannot make the affidavit that he is acquainted with the character of the land, or be sure that the land is not already appropriated by a settler, until after he has actually inspected it.

Information as to whether a particular tract of land is subject to entry may be obtained from the register or receiver of the land district in which the tract is located, either through verbal or written inquiry, but these officers must not be expected to give information as to the character and quality of unentered land or to furnish extended lists of lands subject to entry.

A list showing the general character of all the public lands remaining unentered in the various counties of the public-land States on the 30th day of the preceding June may be obtained at any time by addressing "The Commissioner of the General Land Office, Washington, D. C."

2. Kind of lands subject to homestead entry.—All unappropriated surveyed public lands are subject to homestead entry if they are not mineral or saline in character and are not occupied for the purposes of trade or business and have not been embraced within the limits of any withdrawal, reservation, or incorporated town or city; but homestead

Spl. Coll.

entries upon lands within certain areas (such as lands in Alaska, and lands withdrawn under the reclamation act, certain ceded Indian lands, and lands with abandoned Military reservations, etc.) must be entered subject to the particular requirement of the laws under which such lands are subject to entry. None of these particular requirements are set out in these instructions, but information as to them may be obtained by either verbal or written inquiries addressed to the register and receiver of the land office of the district in which such lands are situated.

HOW CLAIMS UNDER THE HOMESTEAD LAWS ORIGINATE.

3. Claims under the homestead laws may be initiated either by settlement on surveyed or unsurveyed lands of the kind mentioned in the foregoing paragraph, or by the filing of a soldier's or sailor's declaratory statement, or by the presentation of an application to enter any surveyed lands of that kind.

4. Settlements may be made under the homestead laws by all persons qualified to make either an original or a second homestead entry as explained in paragraphs 6 and 13, and in order to make settlement a settler must personally go upon and improve or establish residence on the land he desires. By making settlement in this way the settler gains the right to enter the land settled upon as against all other persons, but not as against the Government should the land be withdrawn by it for other purposes.

A settlement made on any part of a surveyed technical quarter section gives the settler the right to enter all of that quarter section which is then subject to settlement, although he may not place improvements on each 40-acre subdivision; but if the settler desires to initiate a claim to surveyed tracts which form a part of more than one technical quarter section he should perform some act of settlement—that is, make some improvement—on each of the smallest legal subdivisions desired. When settlement is made on unsurveyed lands, the settler must plainly mark the boundaries of all the lands claimed by him.

Settlement must be made by the settler in person, and cannot be made by his agent, and each settler must, within a reasonable time after making his settlement, establish and thereafter continuously maintain an actual residence on the land, and if he, or his widow, heirs, or devisees fail to do this, or if he, or his widow, heirs, or devisees fail to make entry within three months from the time he first settles on surveyed lands, or within three months from the filing in the local land office of the plat of survey of unsurveyed lands on which he made settlement, the right

of making entry of the lands settled on will be lost in case of an adverse claim, and the land will become subject to entry by the first qualified applicant.

5. Soldiers' and Sailors' declaratory statements may be filed in the land office for the district in which the lands desired are located by any persons who have been honorably discharged after ninety days' service in the Army or Navy of the United States during the war of the rebellion or during the Spanish-American war or the Philippine insurrection. Declaratory statements of this character may be filed either by the soldier or sailor in person or through his agent acting under a proper power of attorney, but the soldier or sailor must make entry of the land in person, and not through his agent, within six months from the filing of his declaratory statement, or he may make entry in person without first filing a declaratory statement if he so chooses. The application to enter may be presented to the land office through the mails or otherwise, but the declaratory statement must be presented at the land office in person, either by the soldier or sailor, or by his agent, and cannot be sent through the mails.

BY WHOM HOMESTEAD ENTRIES MAY BE MADE.

6. Homestead entries may be made by any person who does not come within either of the following classes:

- (a) Married women, except as hereinafter stated.
- (b) Persons who have already made homestead entry, except as hereinafter stated.
- (c) Foreign-born persons who have not declared their intention to become citizens of the United States.
- (d) Persons who are the owners of more than 160 acres of land in the United States.
- (e) Persons under the age of 21 years who are not the heads of families, except minors who make entries as heirs, as hereinafter mentioned, or who have served in the army or navy during the existence of an actual war for at least fourteen days.
- (f) Persons who have acquired title to or are now claiming under any of the agricultural public land laws, through settlement or entry made since August 30, 1890, any other lands which, with the lands last applied for, would amount in the aggregate to more than 320 acres. See, however, modification hereof in the rules concerning enlarged homestead entries under the act of February 19, 1909 (37 L. D., 546).

7. A married woman who has all of the other qualifications of a homesteader, may make a homestead entry under any one of the following conditions.

(a) Where she has been actually deserted by her husband.

(b) Where her husband is incapacitated by disease or otherwise from earning a support for his family, and the wife is really the head and main support of the family.

(c) Where the husband is confined in the penitentiary and she is actually the head of the family.

(d) Where the married woman is the heir of a settler or contestant who dies before making entry.

(e) Where a married woman made improvements and resided upon the land applied for before her marriage, she may enter them after marriage if her husband is not holding other lands under an unperfected homestead entry at the time she applies to make entry.

A married woman cannot make entry under any of these conditions unless the laws of the State where the lands applied for are situated give her the right to acquire and hold title to lands as femme sole.

8. If an entryman deserts his wife and abandons the land covered by his entry, the wife then has the exclusive right to contest the entry if she has continued to reside on the land, and on securing its cancellation she may enter the land in her own right, or she may continue her residence and make proof in the name of and as the agent for her husband, and patent will issue to him.

9. If an entryman deserts his minor children and abandons his entry after the death of his wife, the children have the same rights the wife would have exercised had she been deserted during her life-time.

10. If a husband and wife are each holding an original entry or a second entry at the same time, they must relinquish one of the entries, unless one of them holds an entry as the heir of a former entryman or settler. In cases where they cannot hold both entries, they may elect which one they may retain and relinquish the other.

11. A widow, if otherwise qualified, may make a homestead entry notwithstanding the fact that her husband made an entry, and notwithstanding she may be at the time claiming the unperfected entry of her deceased husband.

12. A person serving in the army or navy of the United States may make a homestead entry if some member of his family is residing on the lands applied for, and the application and accompanying affidavits may be executed before the officer commanding the branch of the service in which he is engaged.

13. Second homestead entries may be made, under statutes specifically authorizing such entries, by the following classes of persons, if they are otherwise qualified to make entry:

(a) By a homestead entryman who, commuted his entry prior to June 5, 1900.

(b) By a homestead entryman who, prior to May 17, 1900, paid for lands for which he would have been afterwards entitled to receive patent without payment, under the "free homes act."

(c) By any person who for any cause lost, forfeited or abandoned his homestead entry before February 8, 1908, if the former entry was not cancelled for fraud or relinquished for a valuable consideration. Where an entryman sells his improvements on the land and relinquishes his entry in connection therewith, or if he receives the amount of his filing fees or any other amount, it is held that he relinquishes for a valuable consideration.

(d) Any person who has already made final proof for less than 160 acres under the homestead laws may, if he is otherwise qualified, make a second or additional homestead entry for such an amount of public land as will, when added to the amount for which he has already made proof, not exceed in the aggregate 160 acres. See, however, instructions under the enlarged homestead act (37 L. D., 546).

Any person desiring to make a second entry must first select and inspect the lands he intends to enter and then make application therefor on blanks furnished by the register and receiver. Each application must state the date and number of his former entry and the land office at which it was made, or give the Section, Township, and Range in which the land was located. Any person mentioned in paragraph (c) above must show, by the oaths of himself and some other person or persons, the time when his former entry was lost, forfeited, or abandoned, and that it was not cancelled for fraud or abandoned or relinquished for a valuable consideration.

14. An additional homestead may be made by a person for such an amount of public lands adjoining lands then held and resided upon by him under his original entry as will, when added to such adjoining lands, not exceed in the aggregate 160 acres. An entry of this kind may be made by any person who has not acquired title to and is not, at the date of this application, claiming under any of the agricultural public land laws, through settlement or entry made since August 30, 1890, any other lands which, with the land then applied for, would exceed in the aggregate 320 acres, but the applicant will not be required to show any of the other qualifications of a homestead entryman. See,

however, instructions under the enlarged homestead act (37 L. D., 546).

15. An adjoining farm entry may be made for such an amount of public lands lying contiguous to lands owned and resided upon by the applicant as will not, with the lands so owned and resided upon, exceed in the aggregate 160 acres; but no person will be entitled to make entry of this kind who is not qualified to make an original homestead entry. A person who has made one homestead entry, although for a less amount than 160 acres, and perfected title thereto is not entitled to make an adjoining farm entry.

HOW HOMESTEAD ENTRIES ARE MADE.

16. A homestead entry may be made by the presentation to the land office of the district in which the desired lands are situated of an application properly prepared on blank forms prescribed for that purpose and sworn to before either the register or receiver, or before a United States commissioner, or a United States court commissioner, or a judge, or a clerk of a court of record, in the county or parish in which the land lies, or before any officers of the classes named who resides in the land district and nearest and most accessible to the land, although he may reside outside of the county in which the land is situated.

17. Each application to enter and the affidavits accompanying it must recite all the facts necessary to show that the applicant is acquainted with the land; that the land is not, to the applicant's knowledge, either saline or mineral in character; that the applicant possesses all the qualifications of a homestead entryman; that the application is honestly and in good faith made for the purpose of actual settlement and cultivation, and not for the benefit of any other person, persons, or corporation; that the applicant will faithfully and honestly endeavor to comply with the requirements of the law as to settlement, residence, and cultivation necessary to acquire title to the land applied for; that the applicant is not acting as agent for any person, persons, corporation, or syndicate in making such entry, nor in collusion with any person, corporation, or syndicate to give them the benefit of the land entered or any part thereof; that the application is not made for the purpose of speculation, but in good faith to obtain a home for the applicant, and that the applicant has not directly or indirectly made, and will not make, any agreement or contract in any way or manner with any person or persons, corporation or syndicate whatsoever by which the title which he may acquire from the Government to the lands applied for shall

inure, in whole or in part, to the benefit of any person except himself.

18. All applications to make second homestead entries must, in addition to the facts specified in the preceding paragraph, show the number and date of the applicant's original entry, the name of the land office where the original entry was made, and the description of the land covered by it, and it should state fully all the facts which entitle the applicant to make a second entry.

19. All applications by persons claiming as settlers must, in addition to the facts required in paragraph 17, state the date and describe the acts of settlement under which they claim a preferred right of entry, and application by the widows, devisees or heirs of settlers must state facts showing the death of settler and their right to make entry; that the settler was qualified to make entry at the time of his death, and that the heirs or devisees applying to enter are citizens of the United States or have declared their intentions to become such citizens, but they are not required to state facts showing any other qualifications of a homestead entryman, and the fact that they have made a former entry will not prevent them from making an entry as such heirs or devisees, nor will the fact that a person has made entry as heir or devisee of the settler prevent him from making an entry in his own individual right, if he is otherwise qualified to do so.

20. All applications by soldiers, sailors, or their widows, or the guardians of their minor children should be accompanied by proper evidence of the soldier's or sailor's service and discharge, and of the fact that the soldier or sailor had not prior to his death made an entry in his own right. The application of the widow of the soldier or sailor must also show that she has remained unmarried, and applications for children of soldiers or sailors must show that the father died without having made entry; that the mother died or remarried without having made entry, and that the person applying to make entry for them is their legally appointed guardian.

RIGHTS OF WIDOWS, HEIRS, OR DEVISEES UNDER THE HOMESTEAD LAWS.

21. If a homestead settler dies before making entry, his widow has the exclusive right to enter the lands covered by his settlement, and if there be no widow, then any person to whom he has devised his settlement rights by proper will has the exclusive right to make the entry; but if the settler dies leaving neither widow nor will then the right to enter the lands covered by his settlement passes to the persons who are named as his heirs by the laws of the state in which the land lies. The

persons to whom the settler's right of entry passes must make entry within the time named in paragraph 4 or they will forfeit their right to the next qualified applicant. They may, however, make entry after that time if no adverse claim has attached.

22. If a homestead entryman dies before making final proof his rights under his entry will pass to his widow; or if there be no widow, and the entryman's children are all minors, the right to a patent vests in them upon making publication of notice and proof of the death of the entryman without a surviving widow, that they are the only minor children and that there are no adult heirs of the entryman, or the land may be sold for the benefit of such minor children in the manner in which other lands belonging to minors are sold under the laws of the State or Territory in which the lands are located.

If the children of a deceased entryman are not all minors and his wife is dead, his rights under his entry pass to the person to whom such rights were devised by the entryman's will, or if an entryman dies without leaving either a widow or a will, and his children are not all minors, his rights under his entry will pass to the persons who are his heirs under the laws of the State or Territory in which the lands are situated.

23. If a contestant dies after having secured the cancellation of an entry, his right as a successful contestant to make entry passes to his heirs; and if the contestant dies before he has secured the cancellation of the entry he has contested, his heirs may continue the prosecution of his contest and make entry if they are successful in the contest. In either case to entitle the heirs to make entry they must show that the contestant was a qualified entryman at the date of his death; and in order to earn a patent the heirs must comply with all of the requirements of the law under which the entry was made to the same extent as would have been required of the contestant had he made entry.

No foreign born persons can claim rights as heirs under the homestead laws unless they have become citizens of the United States or have declared their intentions to become citizens.

24. The unmarried widow, or in case of her death or remarriage, the minor children of soldiers and sailors who were honorably discharged after ninety days actual service during the war of the rebellion, or the Spanish-American war, or the Philippine insurrection, may make entry as such widow or minor children if the soldier or sailor died without making entry. The minor children must make a joint entry through their duly appointed guardian. The making of an entry by the widow or minor children of a soldier or sailor exhausts their rights under the homestead law.

RESIDENCE AND CULTIVATION.

25. The residence and cultivation required by the homestead law means the continuance and maintenance of an actual home on the land entered, to the exclusion of a home elsewhere, and continuous annual cultivation of some portion of the land. A mere temporary sojourn on the land, followed by occasional visits to it once in six months or oftener, will not satisfy the requirements of the homestead law, and may result in the cancellation of the entry.

26. No specific amount of either cultivation or improvements is required, but there must in all cases be such continuous improvement and such actual cultivation as will show the good faith of the entryman. Lands covered by homestead entry may be used for grazing purposes if they are more valuable for pasture than for cultivation of crops. When lands of this character are used in good faith for pasturage, actual grazing will be accepted in lieu of actual cultivation. The fact that lands covered by homestead entry are of such a character that they cannot be profitably cultivated or pastured will not be accepted as an excuse for failure to either cultivate or graze them. See instructions under "Enlarged homestead act" (37 L. D. 546) as to the amount of cultivation required on entries made under that act.

27. Actual residence on the land entered must begin within six months from the date of all homestead entries, except additional entries and adjoining farm entries of the character mentioned in paragraphs 14 and 15 and residence with improvements and annual cultivation must continue until the entry is five years old, except in cases hereafter mentioned, but all entrymen who actually resided upon and cultivated lands entered by them prior to making such entries may make final proof at any time after entry when they may show five years' residence and cultivation.

Under certain circumstances, leaves of absence may be granted in the manner pointed out in paragraph 36 of these suggestions, but the entryman cannot claim credit for residence during the time he is absent under such leave.

An extension of time for establishing residence can be granted only in cases where the entryman is actually prevented by climatic hindrances from establishing his residence within the required time. This extension cannot be granted in advance; but in making final proof or in case a contest is instituted against the entry the entryman may show the storms, floods, blockades of snow or ice, or other climatic reasons which rendered it impossible for him to commence residence within six months

from date of entry, and he must as soon as possible after the climatic hindrances disappear establish his residence upon the land entered. Failure to establish residence within six months from date of entry will not necessarily result in a forfeiture of the entry, provided the residence be established prior to the intervention of an adverse claim.

After an entryman has fully complied with the law and has submitted proof he is no longer required to live on the land. But all entrymen should understand that if they discontinue their residence on the land prior to the issuance of patent they do so at their risk, and by so doing they may place themselves in such a position that they may be unable to comply with the requirements made by the General Land Office, should their proof on examination there be found unsatisfactory.

28. Residence and cultivation by soldiers and sailors of the classes mentioned in paragraph 5 must begin within six months from the time they file their declaratory statements regardless of the time when they make entry under such statement, but if they make entry without filing a declaratory statement they must begin their residence within six months from the date of such entry, and residence thus established must continue in good faith, with improvements and annual cultivation for at least one year, but after one year's residence and cultivation the soldier or sailor is entitled to credit on the remainder of the five-year period for the term of his actual naval or military service, or if he was discharged from the army or navy because of wounds received or disabilities incurred in the line of duty he is entitled to credit for the whole term of his enlistment. No credit can be allowed for military service where commutation proof is offered.

29. A soldier or sailor making entry during his enlistment in time of peace is not required to reside personally on the land, but may receive patent if his family maintain the necessary residence and cultivation until the entry is five years old or until it has been commuted, but a soldier or sailor is not entitled to credit on account of his military service in time of peace.

30. Widows and minor orphan children of soldiers and sailors who make entry as such widows and children must begin their residence and cultivation of the lands entered by them within six months from the dates of their entries, or the filing of declaratory statement, and thereafter continue both residence and cultivation for such period as will, when added to the time of their husband's or father's military or naval service, amount to five years from the date of the entry, and if the husbands or fathers either died in the service or was discharged on account of wounds or disabilities incurred in the line of duty, credit for the whole

term of their enlistment, not to exceed four years, may be taken, but no patent will issue to such widows or children until there has been residence and cultivation by them for at least one year. No credit can be allowed for military service where commutation proof is offered.

31. Persons who make entry as heirs of settlers are not required to both reside upon and cultivate the land entered by them, but they must, within six months from the dates of their entries, begin and thereafter continuously maintain either residence or cultivation on the land entered by them for such a period of time as, added to the time during which the settler resided on and cultivated the land, will make five years unless their entries be sooner commuted. Commutation proof cannot, however, be made unless at least fourteen months' actual residence is shown, performed either by the settler or the heirs or in part by the settler and in part by the heirs.

32. The widow, heirs or devisees of a homestead entryman who dies before he earns patent are not required to both reside upon and cultivate the lands covered by his entry, but they must, within six months after the death of the entryman, begin either residence or cultivation on the land covered by the entry, and thereafter continuously maintain either residence or cultivation for such a period of time as will, when added to the time during which the entryman complied with the law, amount in the aggregate to the required five years, unless they sooner commute the entry. But commutation proof cannot be made unless fourteen months' actual residence can be shown, performed by the entryman or by the widow, heirs, or devisees.

33. Homestead entrymen who have been elected to either a federal, state or county office, after they have made entry and established an actual residence on the land covered by their entries are not required to continue such residence during their term of office, if the discharge of their bona fide official duties necessarily requires them to reside elsewhere than upon the land; but they must continue their cultivation and improvements for the required length of time. Such an officeholder cannot commute, however, unless he can show at least fourteen months' actual residence. See circulars of February 16 and 20, 1909 (37 L. D., 449), and October 18, 1907 (36 L. D., 124).

A person who makes entry after he has been elected to office is not excused from maintaining residence, but must comply with the law in the same manner as though he had not been elected.

34. Residence is not required on lands covered by an adjoining farm entry of the kind mentioned in paragraph 15; but a person who makes an adjoining farm entry is not entitled to a patent until he has

continued his residence and cultivation for the full five years, on the adjoining lands owned by him at the time he made entry, or on the lands entered by him, unless he sooner commutes his entry after fourteen months' residence on either the entered lands or the adjoining lands owned by him. A person who has made an additional entry for lands adjoining his original entry (see paragraph 14) is not entitled to a patent to the lands so entered until he can show five years' residence either on the original entry, or in part on the original and in part on the additional.

35. Neither residence or cultivation by an insane homestead entryman is necessary after he becomes insane, if such entryman made entry and established residence before he became insane and complied with the requirements of the law up to the time his insanity began.

LEAVES OF ABSENCE.

36. Leaves of absence for one year or less may be granted to entrymen who have established actual residence on the lands entered by them in all cases where total or partial failure or destruction of crops, sickness, or other unavoidable casualty has prevented the entryman from supporting himself and those dependent upon him by a cultivation of the land.

Applications for leaves of absence should be addressed to the register and receiver of the land office where the entry was made and should be sworn to by the applicant and some other disinterested person before such register and receiver or before some officer in the land district, using a seal and authorized to administer oaths, except in case where through age, sickness or extreme poverty the entryman is unable to visit the district land office or appear before a proper officer in the district for that purpose, when the oath may be made outside of the land district in which the land is situated. All applications of this kind should clearly set forth:

(a) The number and date of entry, a description of the lands entered, the date of the establishment of his residence on the land, and the extent and character of the improvements and cultivation made by the entryman.

(b) The kind of crops which failed or were destroyed and the cause and extent of such failure or destruction.

(c) The kind and extent of the sickness, disease or injury assigned, and the extent to which the entryman was prevented from continuing his residence upon the land, and, if practicable, a certificate

signed by a reliable physician, as to such sickness, disease, or injury, should be furnished.

(d) The character, cause, and extent of any unavoidable casualty which may be made the basis of the application.

(e) The dates from which and to which the leave of absence is requested.

COMMUTATION OF HOMESTEAD ENTRIES.

37. All original, and second, and additional homestead, and adjoining farm entries may be commuted, except such entries as are made under particular laws which forbid their commutation.

When actual residence was established within six months from the date of any entry made before November 1, 1907, and thereafter continuously maintained with improvements and cultivation until the expiration of fourteen months from the date of the entry and in cases where there has been at least fourteen months actual and continuous residence and cultivation on any land covered by any entry made on or after November 1, 1907, the entryman or his widow, heirs, or devisees may obtain patent by proving such residence and cultivation and paying the costs of such proof, the land office fees, and the price of the land, which is \$1.25 per acre outside of the limits of railroad grants and \$2.50 per acre for land within the granted limits, except as to certain lands which were opened under statutes requiring payment of a price different from that here mentioned. See circular October 18, 1907 (36 L. D., 124).

HOMESTEAD FINAL AND COMMUTATION PROOF.

38. Either final or commutation proof may be made at any time when it can be shown that residence and cultivation have been maintained in good faith for the required length of time, but if final proof is not made within seven years from the date of a homestead entry the entry will be canceled unless some good excuse for the failure to make the proof within the seven years is given with satisfactory final proof as to the required residence and cultivation made after the expiration of the seven years.

39. By whom proof may be offered.—Final proof must be made by the entrymen themselves, or by their widows, heirs, or devisees, and cannot be made by their agents, attorneys in fact, administrators or executors, except in the cases hereinafter mentioned. In order to submit final five-year proof the entryman, his widow, or the heir or devisee submitting proof must be a citizen of the United States. As a general rule commutation proof may be submitted by one who has declared his

or her intention to become a citizen, but on entries made on lands in certain reservations opened under special acts the person submitting commutation proof must be a citizen of the United States.

(a) If an entryman becomes insane after making his entry and establishing residence, patent will issue to the entryman on proof by his guardian or legal representative that the entryman had complied with the law up to the time his insanity began. In such a case if the entryman is an alien and has not been fully naturalized, evidence of his declaration of intention to become a citizen is sufficient.

(b) If a person has made a homestead entry and afterwards died while he was serving as a soldier or sailor during the Spanish-American war or the Philippine insurrection, patent will issue upon proof made by his widow, if unmarried, or in case of her death or marriage, then his minor orphan children, or his, her, or their legal representatives.

(c) Where entries have been made for minor orphan children of soldiers or sailors, proof may be offered by their guardian, if any, if the children are still minors at the time the proof should be made.

(d) When an entryman has abandoned the land covered by his entry and deserted his wife, she may make final commutation proof as his agent, or, if his wife be dead and the entryman has deserted his minor children, they may make the same proof as his agent, and patent will issue in the name of the entryman.

(e) When an entryman dies leaving children, all of whom are minors, and both parents are dead, the executor or administrator of the entryman, or the guardian of the children, may, at any time within two years after the death of the surviving parent, sell the land for the benefit of the children by proper proceedings in the proper local court, and patent will issue to the purchaser; but if the land is not so sold patent will issue to the minors upon proof of death, heirship, and minority being made by such administrator or guardian.

40. How proof may be made.—Final or commutation proofs may be made before any of the officers mentioned in paragraph 16, as being authorized to administer oaths to applicants.

Any person desiring to make homestead proof should first forward a written notice of his desire to the register and receiver of the land office, giving his post office address, the number of his entry, the name and official title of the officer before whom he desires to make proof, the place at which the proof is to be made, and the name and post office addresses of at least four of his neighbors who can testify from their own knowledge as to facts which will show that he has in good faith complied with all the requirements of the law.

41. Publication fees.—Applicants shall hereafter be required to make their own contracts for publishing notice of intention to make proof, and they shall make payment therefor directly to the publishers, the newspaper being designated and the notice prepared by the register.

42. Duty of officers before whom proofs are made.—On receipt of the notice mentioned in the preceding paragraph, the register will issue a notice naming the time, place, and officer before whom the proof is to be made and cause the same to be published once a week for five consecutive weeks in a newspaper of established character and general circulation published nearest the land, and also post a copy of the notice in a conspicuous place in his office.

On the day named in the notice the entryman must appear before the officer designated to take proof with at least two of the witnesses named in the notice; but if for any reason the entryman and his witnesses are unable to appear on the date named, the officer should continue the case from day to day until the expiration of ten days, and the proof may be taken on any day within that time when the entryman and his witnesses appear, but they should, if it is at all possible to do so, appear on the day mentioned in the notice. Entrymen are advised that they should, whenever it is possible to do so, offer their proofs before the register or receiver, as it may be found necessary to refer all proofs made before other officers to a special agent for investigation and report before patent can issue, while, if the proofs are made before the register or receiver, there is less likelihood of this being done, and there is less probability of the proofs being incorrectly taken. By making proof before the register or receiver the entryman will also save the fees which they are required to pay other officers, as they will be required under the law to pay the register and receiver the same amount of fees in each case, regardless of the fact that the proof may have been taken before some other officer.

Entrymen are cautioned against improvidently and improperly commuting their entries, and are warned that any false statements made in either their commutation or final proof may result in their indictment and punishment for the crime of perjury.

43. Fees and commissions.—When a homesteader applies to make entry he must pay in cash to the receiver a fee of \$5.00, if his entry is for 80 acres or less, or \$10.00 if he enters more than 80 acres. And in addition to this fee he must pay, both at the time he makes entry and final proof, a commission of \$1.00 for each 40-acre tract entered outside of the limits of a railroad grant and \$2.00 for each 40-acre tract entered within such limits. Fees under the enlarged homestead act are the same as above, but the commissions are based upon the area

of the land embraced in the entry. (See 37 L. D., 546.) On all final proofs made before either the register or receiver, or before any other officer authorized to take proofs, the register and receiver are entitled to receive 15 cents for each 100 words reduced to writing, and no proof can be accepted or approved until all fees have been paid.

In all cases where lands are entered under the homestead laws in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, the commission due to the register and receiver on entries and final proofs, and the testimony fees under final proofs, are 50 per cent more than those above specified, but the entry fee of \$5.00 or \$10.00, as the case may be, remains the same in all the states.

United States commissioners, United States court commissioners, judges, and clerks are not entitled to receive a greater sum than 25 cents for each oath administered by them, except that they are entitled to receive \$1.00 for administering the oath to each entryman and each final proof witness to final proof testimony, which has been reduced to writing by them.

44. The alienation of all or any part of the land embraced in a homestead prior to making proof, except for the public purposes mentioned in section 2288, Revised Statutes, will prevent the entryman from making satisfactory proof, since he is required to swear that he has not alienated any part of the land except for the purposes mentioned in section 2288, Revised Statutes.

A mortgage by the entryman prior to final proof for the purpose of securing money for improvements, or for any other purpose not inconsistent with good faith, is not considered such an alienation of the lands as will prevent him from submitting satisfactory proof. In such a case, however, should the entry be canceled for any reason prior to patent, the mortgagee would have no claim on the land or against the United States for the money loaned.

ENLARGED HOMESTEADS.

(37 L. D., 546.)

HOMESTEAD ENTRIES FOR 320 ACRES—KIND OF LAND SUBJECT TO ENTRY.

1. The first section of the act provides for the making of homestead entry for an area of 320 acres, or less, of non-mineral, non-timbered, non-irrigable public land in the states of Colorado, Montana,

Nevada, Oregon, Utah, Washington, Wyoming and in the territories of Arizona and New Mexico.

The term "non-irrigable land," as used in this act, is construed to mean land which, as a rule, lacks sufficient rainfall to produce agricultural crops without the necessity of resorting to unusual methods of cultivation, such as the system commonly known as "dry farming," and for which there is no known source of water supply from which such land may be successfully irrigated at a reasonable cost.

Therefore, lands containing merchantable timber, mineral lands and lands within a reclamation project, or lands which may be irrigated at a reasonable cost from any known source of water supply, may not be entered under this act. Minor portions of a legal subdivision susceptible of irrigation from natural sources, as, for instance, a spring, will not exclude such subdivision from entry under this act, provided, however, that no one entry shall embrace in the aggregate more than 40 acres of such irrigable lands.

DESIGNATION OR CLASSIFICATION OF LANDS.

2. From time to time lists designating the lands which are subject to entry under this act will be forwarded to the land offices of the districts in which the lands so designated are situated, and will be noted on the tract books opposite the tracts so designated, "Designated, act February 19, 1909." Until such lists have been received at the land offices, no applications to enter shall be received and no entries allowed under this act, but after the receipt of such lists the lands embraced therein may be disposed of under the provisions of this act, in like manner as other applications for public lands, without first submitting them to the General Land Office for consideration.

COMPACTNESS—FEES.

3. Lands entered under this act must be in a reasonably compact form, and in no event exceed 1½ miles in length.

The act provides that the fees shall be the same as those now required to be paid under the homestead laws; therefore, while the fees may not in any one case exceed the maximum of \$10.00 required under the general homestead law, the commissions will be determined by the area of the land embraced in the entry.

FORM OF APPLICATION.

4. Applications to enter must be submitted upon affidavit, Form No. 4-003.

ADDITIONAL ENTRIES.

5. Section 3 of the act provides that any homestead entryman of lands of the character described in the first section of the act, upon which entry final proof has not been made, may enter such other lands, subject to the provisions of this act, contiguous to the former entry, which shall not, together with the lands embraced in the original entry, exceed 320 acres, and that residence upon and cultivation of the original entry shall be accepted as equivalent to residence and cultivation of the additional entry.

This section contemplates that lands heretofore entered may be classified or designated by the Secretary of the Interior as falling within the provisions of this act and in such cases an entryman of such lands, who had not at the date of the act made final proof, may make an additional entry, provided he is otherwise qualified. Applicants for such additional entries must, of course, tender the proper fees and commissions and must make application and affidavit on Form No. 4-004. Entryman who made final proof on the original entries prior to the date of the act are not entitled to make additional entries under this act.

FINAL PROOFS ON ORIGINAL AND ADDITIONAL ENTRIES—COMMUTATION NOT ALLOWED.

6. Final proofs must be made as in ordinary homestead cases, and in addition to the showing required of ordinary homestead entrymen it must be shown that at least one-eighth of the area embraced in each entry has been continuously cultivated to agricultural crops other than native grasses, beginning with the second year of the entry, and that at least one-fourth of the area embraced in the entry has been continuously cultivated to agricultural crops other than native grasses, beginning with the third year of the entry and continuing to date of final proof.

Final proof submitted on additional entry must show that the area of such entry required by the act to be cultivated has been cultivated in accordance with such requirement; or that such part of the original entry as will, with the area cultivated in the additional entry, aggregate the required proportion of the combined entries, has been cultivated in the manner required by the act.

Proof must be made on the original entry within the statutory period of seven years from the date of the entry; and if it cannot be shown at that time that the cultivation has been such as to satisfy the requirements of the act as to both entries it will be necessary to submit supplemental proof on the additional entry at the proper time. But proof must be

made at the same time to cover both entries in all cases where the cultivation and residence are such as to meet the requirements of the act.

Commutation of either original or additional entry, made under this act, is expressly forbidden.

RIGHT OF ENTRY.

7. Homestead entries under the provisions of section 2289 of the Revised Statutes, for 160 acres or less, may be made by qualified persons within the states and territories named upon lands subject to such entry, whether such lands have been designated under the provisions of this act or not. But those who make entry under the provisions of this act cannot afterwards make entry under the provisions of the general homestead law, nor can an entryman who makes entry under the general homestead law on lands designated as falling under the provisions of this act afterwards enter any lands under this act.

A person who has, since August 30, 1890, entered and acquired title to 320 acres of land under the agricultural-land laws (which is construed to mean the timber and stone, desert land and homestead laws) is not entitled to make entry under this act; neither is a person who has acquired title to 160 acres under the general homestead law entitled to make another homestead entry under this act, unless he comes within the provisions of section 3 of the act providing for additional entries of contiguous lands, or unless entitled to the benefits of section 2 of the act of June 5, 1900 (31 Stat., 267), or section 2 of the act of May 22, 1902 (32 Stat., 203).

If, however, a person is a qualified entryman under the homestead laws of the United States, he may be allowed to enter 320 acres under this act, or such a less amount as when added to the lands previously entered or held by him under the agricultural land laws shall not exceed in the aggregate 480 acres.

CONSTRUCTIVE RESIDENCE PERMITTED ON CERTAIN LANDS IN UTAH.

8. The sixth section of the act under consideration provides that not exceeding 2,000,000 acres of land in the state of Utah, which do not have upon them sufficient water suitable for domestic purposes as will render continuous residence upon such lands possible, may be designated by the Secretary of the Interior as subject to entry under the provisions of this act; with the exception, however, that entrymen of such lands will not be required to prove continuous residence thereon. The act provides in such cases that all entrymen must reside within such

distance of the land entered as will enable them successfully to farm the same as required by the act; and no attempt will be made at this time to determine how far from the land an entryman will be allowed to reside, as it is believed that a proper determination of that question will depend upon the circumstances of each case.

Applications to enter under this section of the act will not be received until lists designating or classifying the lands subject to entry thereunder have been filed and noted in the local land offices. Such lists will be from time to time furnished the registers and receivers, who will immediately upon their receipt note upon their tract books opposite the tracts so listed the words "Designated, section 6, act February 19, 1909." Stamps for making the notations required by these instructions will be hereafter furnished the local officers. Applications under this section must be submitted upon Form 4-003.

FINAL PROOF ON ENTRIES ALLOWED UNDER SECTION 6—RESIDENCE—COMMUTATION NOT ALLOWED.

9. The final proof under this section must be made as in ordinary homestead entries, except that proof of residence upon the land will not be required, in lieu of which the entryman will be required to show that the date of original entry until the time of making final proof he resided within such distance from said land as enabled him to successfully farm the same. Such proof must also show that not less than one-eighth of the entire area of the land entered was cultivated during the second year; not less than one-fourth during the third year, and not less than one-half during the fourth and fifth years after entry.

OFFICERS BEFORE WHOM APPLICATIONS AND PROOFS MAY BE MADE.

10. The act provides that any person applying to enter land under provisions thereof, shall make and subscribe before the proper officer an affidavit, etc. The term "proper officer," as used herein, is held to mean any officer authorized to take affidavits or proof in homestead cases.

Complete information concerning designation or classification of lands by the Secretary of the Interior, subject to the foregoing Act of Congress February 19, 1909, situated in eastern Montana, together with a general description of the country, character of the soil, railroad facilities, etc., can be had by addressing

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make a specialty of locating settlers on the public domain, and selecting suitable tracts for colonies; they furnish information concerning the character of the lands open to settlement, distance from railroads, climatic conditions, water supply, fuel supply, prices of building material, farming machinery and horses, and in fact, any and all information of value to intending settlers, free of charge.

Lists of improved lands for sale furnished on application, together with a "true" description of each tract and the distance to the nearest shipping point.

COAL LANDS

THE VALLEY LAND COMPANY will furnish information concerning coal lands and the method of securing title to the same upon application. Extensive coal fields abound in eastern Montana, and offer special inducements to investors. You ought to know about them.



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