

PRE-EMPTIONS.

The principal difference between the homestead and the pre-emption privilege is: 1. That beyond the small fees and commissions to the registers and receivers, nothing is paid for the land homesteaded, whereas \$1.25 or \$2.50 per acre in money or its equivalent must be paid for the land pre-empted. Formerly the homestead rights commenced at date of entry at the local land office. But by the act of May 14, 1880, (already referred to) a homestead claim is allowed to relate back to date of settlement, like a pre-emption claim.

The principal resemblances are; 1. That certain time is allowed after the first papers are filed in the land office within which final proof must be made. 2. Residence and cultivation and improvements are necessary to secure title. 3. Settlement may be made on unsurveyed land. Formerly homesteads could not be entered on unsurveyed lands.

A claimant under the pre-emption law for land which has been offered is required to file a notice of his or her claim within thirty days from date of settlement. If the land has not been offered for sale, the declaratory statement must be filed within three months from date of settlement. If the land is not surveyed at date of settlement, the declaratory statement must be filed within three months from date of filing the township plat of survey in the local office. A *failure* to file a declaratory statement will render the land subject to the claim of an adverse settler who does thus file the notice of intention required by law to claim the land.

"Offered lands" are those that have been advertised and proclaimed for sale, but which were not at the time sold. "Unoffered" lands are such as were never offered. There is very little "offered land" in this country at present.

The land office fee for filing is \$3.00 in California, Oregon, and Washington and Idaho Territories. If the land is offered, proof and payment for the same must be made within twelve months from date of settlement. If not offered, said proof and payment must be made within thirty-three months

from the date of settlement. A *failure* to thus make proof and payment will render the land subject to the claim of an adverse settler who does comply with the law in the matter of filing a declaratory statement and making proof and payment. Within railroad grants the government price is \$2.50 per acre and outside of such limits \$1.25.

The pre-emption privilege is restricted to heads of families, widows, or single persons over the age of twenty-one, who are citizens of the United States, or who have declared their intention to become citizens, as required by the naturalization laws.

The same requirements as to residence and cultivation and improvement must be observed under this law as under the homestead law; that is, the claimant must actually reside upon and make his home upon the land. An impression may prevail in the minds of settlers that because the courts and the Department have held that a person cannot, under the homestead and pre-emption laws, take lands in the possession of another, and improved and cultivated by him, a settler may be released and excused from a compliance with the law in the matter of residence. Such, however, is not the fact. Upon showing of a failure to comply with the law on the part of the claimant in this respect, the entry or filing will be canceled, and the land, restored to the mass of the public domain, will be subject to disposal under the laws of the United States. The right of a party to take the land improved by, and in the possession of, another, will be a question to be considered upon its merits. Good faith must also be shown by the settler in the matter of improvements and cultivation of the land. Proof and payment may be made at any time after six months of actual residence and improvement of the tract. The improvements must be of a substantial and valuable character. The settler must appear in person at the land office and give his own testimony. The evidence of his witnesses may be taken before any officer authorized to administer oaths under State or Territorial laws in cases where such witnesses live at a great distance from the land office. Blanks for this purpose will be furnished upon application to the local land officers.

RULINGS UNDER THE PRE-EMPTION LAWS.

Persons who own three-hundred and twenty acres of land, who have left agricultural land of their own (not a town lot) in the same state or territory and those who settle for speculation are not entitled to the pre-emption privileges.

If a single woman marry after filing her declaratory statement, she abandons her right as a pre-emptor.

Under the pre-emption laws, the "head of a family" means the actual living head of a family. A deserted wife or one whose husband is a confirmed drunkard may be the head of a family.

From the moment a claimant enters upon land subject to pre-emption with the intention of remaining and entering the land according to law, and does some act showing such intention, he is a settler.

Such an act may consist in erecting a house, clearing timber, building fences, etc.

Having made a settlement, his next step towards securing title is the filing of his declaratory statement within the time specified, or he will be liable to lose his claim.

A declaratory statement on file in the proper office is notice to the world of the location and extent of a pre-emption claim; and no subsequent amendment, except for error or mistake, can operate to defeat a right initiated prior to such amendment.

A party cannot file under the pre-emption and the homestead law at the same time.

Where land has been reserved and then released from such reservation, the rule is to give notice by publication when the land will become subject to appropriation. A pre-emptor who has been living on such land will have preference over a pre-emptor who makes settlement on the day the land becomes subject to appropriation, other things being equal.

The local land officers have no authority to receive applications to file or enter land which is in a state of reservation, and hold them until the reservation is removed, and then place them on record, in order to advance the interests or accommodate any individual.

A settler who in good faith is residing on a tract of land covered by a homestead entry at the date of the cancellation of said entry, has a superior right to said tract, if he file under the pre-emption law in time, to a person