GOSSIP

A STUDY IN HOMESTEAD LAWS.

The homestead law is a product of the New World. It is the expression by young countries of their desire for population and the wealth for which agriculture is the soundest basis. There is no precedent for the law in the codes of the nations of Europe because never before Columbus doubled the size of the world, were there lands crying out for peopling. The homestead laws of both the Dominion and the United States were framed for the same purpose, namely, the settling of vast areas of vacant country with a prosperous agricultural population. In this enterprise the United States was the pioneer, and Canada has been able to profit by her neighbor's experience. For this reason a comparison of the laws of the United States with this new Dominion Land Act, which is the result of the experience of two nations, is illuminating.

There is a certain fundamental likeness between the two sets of laws, because in seeking to fill their vast solitudes with a large and thriving population, both have had to guard against the same difficulties. Great tracts of land must not be allowed to fall into the hands of a few individuals —therefore, both have set a limit to the size of the tract which one person may acquire. The individual settler must not be hampered by lack of sufficient land for a competence—therefore, both laws provide a generous allotment, one hundred and sixty acres. The land must be permanently productive—therefore, both laws require cultivation over a period of years to test the prospective owner's good faith.

Theoretically, then, the laws of the two countries are framed to serve the same purpose; practically, both in their provisions and in their enforcement, there is a great difference. For convenience in administration the public lands of the United States were surveyed into blocks six miles square, called townships, and each township was divided into thirty-six sections of six hundred and forty acres each. The Canadian Government, when it found itself with a new empire of wilderness on its hands, followed the same plan. Application for a homestead may be made in both countries by a citizen or by an alien who declares his intention of becoming a citizen, but in the United States five years residence is required before the final naturalization papers are made out, in Canada only three years. In the United States the head of a family (including widows, spinsters and wives who have been deserted) or any male over twenty-one years of age, is eligible for a homestead, while in Canada the head of a family (including widows with dependent minor children, but not spinsters) or any male over eighteen years of age,may make application. The Canadian law thus permits a young man to get an early start in life, while it discriminates against those women whose cultivation of the soil is apt to be perfunctory, and the homesteading a mere investment, and favors those cases where there is a real incentive to the making of a living out of the farm for the dependent children.

In each case application must be made in person (except for certain limited classes) to the land agent in the district in which the homestead is to be taken

up, while six months is allowed for the completion of the entry by entering into residence. This application in person is one surety of good faith on the part of the applicant. The expense of filing an entry is nominal in each country. In Canada it is $10.00 in all cases, in the States it varies from $14.00 to $25.00 in different localities. The immigrant with a very limited amount of money considers this difference.

After filing an entry, both laws require a period of residence before a patent is issued for the land, but in the United States this period covers five years and in Canada only three. At the first glance the law of the States seems more likely to serve the end of placing a permanent population on the soil; but the crux lies in the definition of the term "residence." Canada requires at least six months continuous residence during each year, while the letter of the American law is satisfied by a few days in each six months. Thus, the real intent of the Homestead Act can easily be evaded in the United States, while in Canada the more rigorous requirements have no terrors for the man earnestly trying to make a living on his farm and a premium is put on his good faith by the comparatively short period before he receives a fee simple in his home. The American is obliged to build a house on his quarter section and live in it. This house may be a mere shack, but it must be on the one hundred and sixty acres, even if the homesteader's family lives on the next farm. The Canadian may live with his father (or widowed mother) who lives on farm land of not less than eighty acres owned by himself or on a homestead not more than nine miles distant, or the homesteader may live on his own land of not less than eighty acres within the same distance. This is a reasonable provision making for comfort and family life.

Again, in the amount of cultivation, the American law is indefinite, simply reqniring cultivation without stating an exact minimum. The Canadian law requires an "amount satisfactory to the Minister," which, prior to June, 1908, the Land Department fixed as the cultivation of fifteen acres by a resident homesteader or of thirty acres by one living in the vicinity. Now the requirement is the breaking of thirty acres (of which twenty must be cropped) by a resident, and the breaking of fifty acres (thirty to be cropped) by a non-resident. A reasonable proportion must be done during each year. In case of land difficult to break because of scrub, the area may be decreased at the discretion of the department. Thus the Canadian law safeguards the government and the homesteader at the same time; the duties being perfectly clear and definite, there is no debatable ground on which a homestead may be cancelled.

The law of the United States has one feature entirely lacking in the Canadian law: the homesteader, at the end of fourteen months' continuous residence and the cultivation of a large part of the quarter section, may commute the remainder of the residence requirement by a cash payment. Of course this is open only to those who are already citizens and to those who have sufficient means to enable them to break and cultivate a large area the first year. On the other hand, the Canadian law provides for the reservation of land by a boy at the age of seventeen. This has no counterpart in the American law and is a very comfortable arrangement for the farmer who has growing sons to provide for.

A citizen of the States, after securing one-quarter section, has entirely exhausted his homestead right while the Canadian, under certain conditions, can secure a second allotment. Anyone who completed his patent by June 1, 1889, may take out another free homestead. In a certain large district in Alberta and Saskatchewan, a homesteader may preempt another quarter section lying adjacent to his homestead, where it is available. Title is given to homestead and preemption at the end of six years, and the preempted quarter section has to be paid for in cash, one-third in three years from date of entry and the remainder in five annual installments with interest at five per cent.; but the preemptor may pay in full on completion of residence and cultivation duties. Any person who has exhausted his homestead right and is prevented from preempting by the position of his homestead, may purchase a second homestead by paying for it in three installments, the last one due on completion of the regular homestead duties. The purchaser must cultivate fifty acres and build a house costing at least $300.

The portion of the province in which preemptions may be taken is a large tract lying in Southwestern Saskatchewan and Alberta, bounded on the south by the International boundary, on the east by the line of the "Soo" railway as far north as its junction with the Canadian Pacific, the Canadian Pacific to the 3rd P. M., and the 3rd P. M. on the north by the north line of townships 44, and on the west by the west line of Range 21 West of the 4th P. M.

Such are the principal provisions of the two laws. The American law is very simple—an example of the "go as-you-please" spirit prevailing in the States at the time it was framed. It says: "File on the land; cultivate it, as much as you please; build a house of any sort you choose and live in it for five years—that is, do not leave it for a full six months at any time." The Canadian law is elaborate; but, as we have seen, its details are such as to safeguard both the Government and the homesteader, and to give it a reasonable elasticity, fitting it to individual cases.

To what lands do these two sets of laws apply—that is, what lands are open for homesteading in the two countires? In the United States there is practically no fertile land left for free homesteading. The Government is reclaiming parts of the arid states by irrigation, and from time to time parcels of these lands are thrown open, in plots of from twenty to eighty acres each, a size suitable for an irrigated farm. The rush is so great for these small homesteads that applicants are obliged to register in person long ahead of time at the local land office and then a drawing is held for the privilege of choosing homesteads. Often five thousand persons will register for a few hundred homesteads. Then there are the Indian reservations which are opened occasionally. These lands are sold at from $2.00 to $8.00 an acre in addition to the regular homestead duties. However, payments are on the installment plan, and as the lands are usually worth several times the price, there is a great demand. The same registry and drawing system is used on the Indian lands, and prevents the disgraceful fights which marked the opening of some of the large reservations in the past. But the chance of getting good land for homesteading is very slim. It is only a chance.

In Canada, under the old Land Act only the even numbered sections of a township were available for homesteading, and for a dozen years a steadily-increasing system of immigrants has been pouring into Western Canada and spreading itself along the railroads until the available lands, within easy distance of market towns, were well taken up, and this in spite of the marvelous expansion of the great railway systems of the West. Of late colonists have gone into new district, ahead of the railway, knowing that it would come to them sooner or later—but this requires either capital or hardihood, or both. The odd numbered sections were a reserve from which the railways might choose their land grants and the present Government pushed on the work of selection until all the railway claims were satisfied. The field was clear for the Oliver Land Act, which has just gone into effect.

By L. DARBY in "*Canada-West*"