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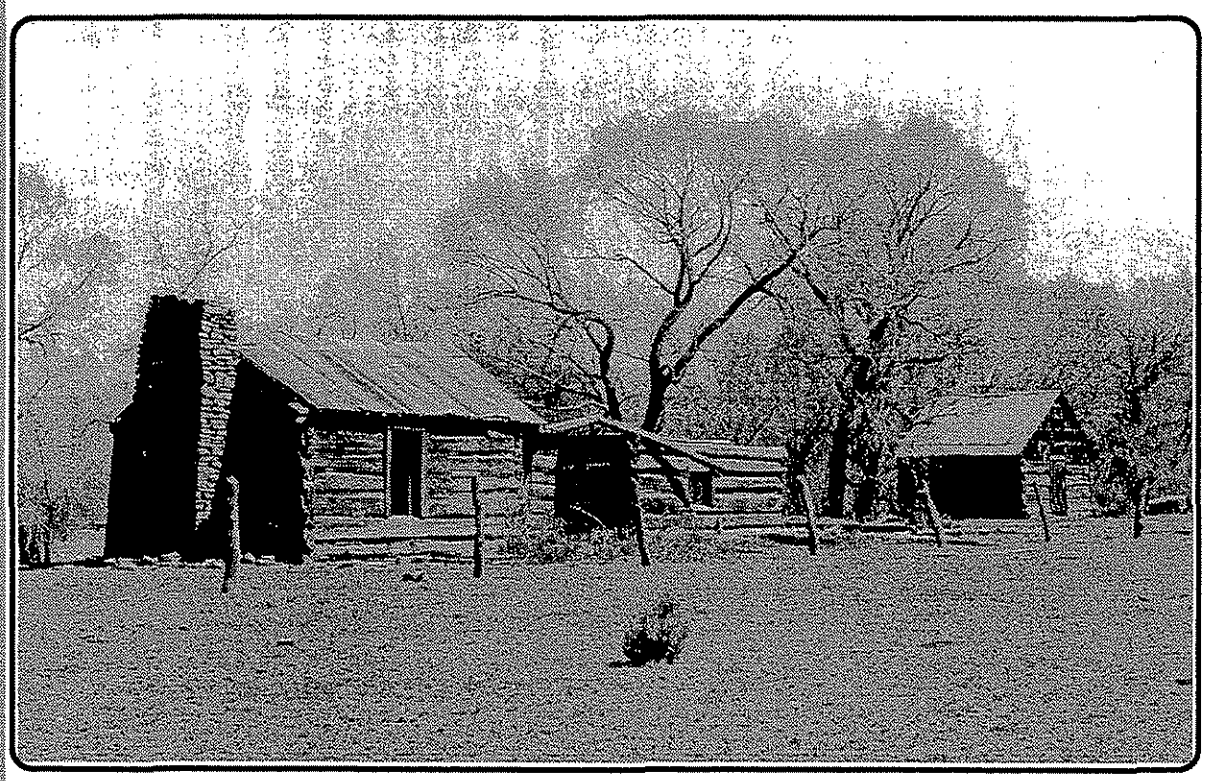
HOMESTEADING IN ARIZONA
1870-1942



A Component of the Arizona Historic Preservation Plan

prepared for:
Arizona State Historic Preservation Office
Arizona State Parks Board
1300 W. Washington
Phoenix, AZ 85007

prepared by:
Pat H. Stein
Arizona State Historic Preservation Office

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and priorities for the SHPO in planning its own activities and expending its annual Historic Preservation Fund (HPF) allocation; the National Park Service requires that a preservation plan be prepared by the SHPO and that the plan be historic context-based. General readers will learn how the homesteading process worked and why it was important in the settlement of the state. The guidelines for evaluating the significance and integrity of homesteads should be most helpful to cultural resource managers. And archaeologists may gain new insight from the suggestions for research.

In 1987, a study by the Arizona State Land Commission reported that over 12 million acres of land in our state were privately owned and that twenty-five percent had been acquired as a result of homesteading. Unquestionably, homesteading was a major factor in the settlement and growth of Arizona. The SHPO hopes that this historic context study will provide a perspective on the process that, by 1915, turned rural Arizona into a sea of lantern lights.

Narrative
Homesteading: When, Where, and How It Occurred

People often apply the term "homestead" to any ranch, farm, or rural home in Arizona. The term implies a self-sufficient, usually rural, and often bucolic lifestyle. In this study, "homestead" is used in a more restricted sense. It refers only to properties that were settled pursuant to the Homestead Act of 1862 or any of three subsequent, related laws: the Forest Homestead Act of 1906, the Enlarged Homestead Act of 1909, and the Stock Raising Homestead Act of 1916. These acts shared common principles, rooted in the writings of Thomas Jefferson, Tom Paine, and the theory of natural rights: every citizen had a right to a share of the soil, and public lands should be granted to the people in small tracts. If you settled the land, you were entitled to the land: how simple a concept, yet how momentous its consequences. From 1862 until the repeal of its enabling legislation in 1976, homesteading would provide the vehicle for transferring over 270 million acres from public stewardship to private ownership.

To begin to understand homesteading, it helps to be aware of the public land laws which structured it. The following paragraphs summarize such legislation, but the reader is encouraged to consult Gates (1968) for a more detailed discussion. Anyone working with homesteading must always keep in mind that the law was constantly being amended and reinterpreted by the General Land Office (GLO) and the Department of the Interior. Three trends will become apparent as we review the acts, their amendments, and pertinent regulations. First, the legal framework changed through time so that one could homestead larger and larger tracts. In 1862, a claimant could homestead only 160 acres; by contrast, in 1916, a claimant could homestead 640 acres -- a full square mile or "section." Second, the laws evolved so that the claimant could fulfill the residency requirement and "prove up" (satisfy the legal requirements for) a homestead in shorter periods of time. Third, laws and regulations also evolved to allow homesteaders more time in which to make entries and prove up a claim. The

net effect of these trends was to make homesteading increasingly feasible on marginally productive lands of the West.

The first National Homestead Act, passed in 1862, entitled heads of households or persons at least 21 years of age to file for 160 acres otherwise sold by the government at $1.25 per acre, or for 80 acres otherwise sold by the government at $2.50 per acre. The more expensive land was that which lay within the limits of railroad grants. In states, railroad grants extended 20 miles to either side of track right-of-ways. In territories such as Arizona, the grants extended 40 miles to either side of the trackage. (The limitation that settlers could enter only 80 acres within railroad grant land was eventually removed by the Act of March 3, 1879). Only one entry was allowed per applicant. Aside from nominal filing fees, homestead land was free to those who fulfilled the residency and improvement requirements of the law; that is, the homesteader (commonly called the "entryman" - the man or woman who filed the claim) had to reside on the land continuously for five years and cultivate a portion of it for the final four years. Entrymen who failed to establish residency within six months risked losing their claims to later applicants.

All federal land was potentially available for homesteading, provided that it was non-saline and non-mineral in general character, was not previously withdrawn or reserved, was not occupied for trade or business purposes, and did not lie within an incorporated city or town. The government could cancel a claim if the claimant failed to show proof that he or she was complying with provisions of the act. The GLO had to bring specific charges before proceeding against a homesteader, and the claimant was given 30 days in which to rectify deficiencies in the claim. The entryperson then had the right to a hearing before officials of the local land office. If the decision rendered was unsatisfactory, the claimant could appeal the case to the Commissioner of the GLO, and then to the Secretary of the Interior. If this procedure failed to bring satisfaction, the case could be taken to Federal court.

A homesteader had the right to relinquish the claim (surrender it voluntarily) at any time. Alternatively, he or she could "commute" the claim: purchase it outright for the normal price of $1.25 or $2.50 per acre. A commutation was simply a legal substitution allowing the entryperson an alternative to the residence and cultivation that homestead law required. In making payment under the commutation clause, an entryperson could pay cash or use scrip of equal value. The scrip had to be either military land warrants (land certificates granted to veterans prior to the Civil War) or Agricultural College Scrip which was issued as a consequence of the Morrill Act of 1862. Gates (1968) provides a good discussion of both types of scrip.

Inspectors from the GLO were supposed to visit homesteads to check for compliance with the 1862 act (as well as subsequent homestead laws). The GLO did not establish a regular force of special agents until 1883. In practical terms, inspection did not always occur, for the special agent force was small and the distances involved in visiting claims were often vast. However, homestead laws did provide an additional check on the claimant's word. In a local newspaper of general circulation nearest the homesteader's claim, the GLO published for five weeks a notice of the claimant's intention to "prove up". Included in the notice was a list of witnesses, at least two of

whom were to appear before the GLO and testify on the homesteader's behalf. Members of the general public were expected to, and often did, contest questionable claims.

In 1872 an important change in homestead law occurred when veterans who had rendered service in the Civil War for the Union were given the right to count each year of military service toward the five-year residency requirement. However, they did have to reside on and cultivate the claim for at least one year. Provisions of the 1872 Act were later enlarged and extended to veterans of the Spanish-American War, the Philippine Insurrection, the Mexican border campaign, World War I, and the Indian campaigns. Veterans' rights were further expanded by the Act of February 14, 1920 (41 Stat. 434), which allowed them first choice on lands newly opened for homesteading.

Another significant change in homestead law occurred with passage of the Act of May 14, 1881 (21 Stat. 140), which permitted homesteaders to relate their rights back to the date of settlement if made prior to the date of entry. By using this law, a settler who had lived on the land for a relatively long period could sometimes proceed from "date of entry" to "final proof" in a matter of months, speeding the legal process considerably.

In the early twentieth century, many homesteads in central and northern Arizona were inholdings within Forest Reserves (non-Forest parcels surrounded by Forest Reserves), and the law which applied specifically to them was the Forest Homestead Act of 1906. The purpose of the law was to put tillable land into the hands of farmers, in order to cultivate it and not provide merely a ranch headquarters for running livestock. Regulations adopted by the Forest Service stated that a claim under the Forest Homestead Act would not be allowed if it contained less than 40 acres of arable soil in the ponderosa pine zone or less than 80 acres of arable soil in the pinyon-juniper belt. Less tillable acreage was allowed if the claim was irrigable.

Congress in 1909 passed the Enlarged Homestead Act, popularly called the Dry Farming Homestead Act. The act recognized that many lands which were too arid for growing highly water-dependent crops could be made productive through dry-farming methods long known to indigenous farmers of the Southwest but only recently discovered by horticulturalists. Dry-farming emphasized the cultivation of drought-tolerant crops, harrowing the soil in fallow years to keep weed levels down and preserve soil moisture, converting topsoil into a dust mulch, plowing deeply in the fall, and packing seeds firmly with drills. Its advocates stressed a 320-acre homestead unit as the optimum sized tract, and this tract became the cornerstone of the 1909 act. The claimant had to live on the land continuously and cultivate it in non-native grasses for five years, although, of course, years of military service could be counted toward this requirement. The United States Geological Survey (USGS) was delegated to classify lands which could be settled under the 1909 act. The entryperson was not allowed to commute this type of claim.

One of the most significant changes in homestead law occurred in 1912, when Congress reduced the residency requirement from five to three years. The same law gave the homesteader the option of being absent from the claim for five months of each

year. The claimant was to notify the GLO at the beginning and end of each leave of absence, and he or she had to prove up within five years.

To further promote the occupation of remnant lands not settled under any of the above acts, Congress in 1916 passed the Stock-Raising Homestead Act. This allowed entrymen to file on 640-acre parcels classified by the USGS as non-mineral, non-irrigable, non-timbered, and valued chiefly for their grazing and forage potential. In proving up, the entryperson had to submit evidence that his stock-raising improvements represented a minimum investment of $1.25 per acre. Although residency was required, the cost of home construction could not be included in this figure. Homesteaders under previous acts were allowed to bring their total homestead holdings to 640 acres, as long as such tracts lay within 20 miles of their original entries. Again, the USGS was the agency responsible for designating lands which could be entered pursuant to this act. Commutation of a stock-raising claim was not allowed.

Of the various types of homesteads, stock raising ones proved the most administratively and economically troublesome. Mainly because of under-funding by Congress, USGS was slow to designate lands which could be settled pursuant to the act, and, by 1918, designation lagged far behind demand. A stop-gap measure was adopted. An individual could petition the government for designation of public land for entry under the law, setting forth why he or she believed the land was grazing land as defined by law. However, the USGS still had to make a determination before the entry was allowed.

Meanwhile, passage of a 1919 law had a significant impact in easing the burden of residence on all homestead claimants. By the Act of February 25, 1919 (40 Stat. 1153), homesteaders could, within one year of making entry and upon a proper showing that adverse climatic conditions made living on their entries for seven months a year a hardship, request a reduction of the time spent on the entry during the year. The time could be reduced to six months per year, but then the homesteader had to spend four years on the entry. Reduction to five months a year increased the time that had to be spent on the claim to five years. Of course, veterans' rights could be applied toward these residency requirements.

Congress excused absences from homesteads during the years 1929 through 1932 because of drought, but that time was not deducted from the homesteader's required residency. On the contrary, the entryperson had to make up the excused months, and this was done by extending the time in which final proof had to be submitted to a period equal to the absence time allowed. Similarly, Congress excused absences from homesteads from 1932 to 1936 because of poor economic conditions. For final proofs due during the period July 1, 1931 through December 31, 1936, Congress allowed settlers who could prove hardship due to climatic or economic conditions an additional two years in which to make final proof (previously, under the "Three-Year" Homestead Act of 1912, the period for submitting final proof could not exceed five years from date of entry).

In the 1920s and 1930s, discontent with the Stock-Raising Homestead Act continued to simmer. Cattlemen deplored the parceling of open range into small fenced ranches and argued that stock-raising homesteads decreased the carrying capacity of rangeland (indeed, when the Bankhead-Jones Act of 1937 allowed the government to buy back low-production lands, many of the lands thus reacquired in the Southwest were former stock-raising homesteads). By implication, the Stock-Raising Homestead Act was replaced by the Taylor Grazing Act of 1934, which provided for the allotment of public lands in economically feasible -- that is to say, larger -- acreages. Section 7 of the Taylor Grazing Act stated that public lands within grazing districts created as a consequence of the law were not subject to settlement or occupation as homesteads until after they had been classified as such and opened to entry. For lands to be classified as available for homesteading, they had to be "more valuable and suitable for the production of agricultural crops than native grasses and forage plants." Then, on November 26, 1934, President Franklin D. Roosevelt withdrew all the vacant, unreserved, and unappropriated public lands in Arizona and other western states from settlement, location, sale, or entry, and reserved them for "classification, and pending determination of the most useful purpose to which such land may be put in consideration of the [Taylor Grazing Act], and for the conservation and development of natural resources." As a consequence of the Act and FDR's withdrawal, homesteaders now had to petition for classification before making entry. Petitions had to show that the conditions of the area (topography, soil, climate, and so forth) gave reasonable assurance of successful farming. Gone were the days of indiscriminate entry on the land, and the number of allowed homesteads dropped dramatically.

In view of all the laws, amendments, and regulations cited above, it may come as no surprise that the early days of homesteading were not its heyday. Figures gathered by the Bureau of Land Management (BLM 1962) to commemorate the centennial of the Homestead Act demonstrate this point (Figure 1). Nationally, more than 70 percent of all successful homesteading was done in the 20th century. More than a quarter of the total acreage was transferred to private ownership in the 10-year period during and after World War I. However, this boom period in fact began in the early 1910s when massive numbers of entries were *filed* (note that Figure 1 reflects dates when entries were *proved up*) in direct response to the Enlarged Homestead Act. The timing of the 1909 law, coupled with the economic panic of 1907 and widespread fear that public land was vanishing, triggered an enormous response "somewhat akin to last-minute shopping on Christmas Eve" (Allen 1987: 136);

> Anything would do. People who had never considered homesteading along with those who had tried it more than once before, became land-seekers, even though the lands opened under the Enlarged Homestead Act were, in the words of one bitter commentator, "the parings and scraps and crumbs of the Old West."

Although a comprehensive study of homesteading in Arizona has never been conducted, a variety of sources indicate the following figures and trends.

1. Arizona was one of only 31 states or territories to ever have homesteading. There were no homesteads in New England, virtually none east of the Mississippi, and very few in the first tier of states west of the river (BLM 1962: 1).

2. Homesteading had trouble establishing its roots here. A successful claim was not entered until the 1870s, when William H. Willey filed for and eventually received (patent dated May 16, 1878) 160 acres in the SE 1/4 of Section 18, Township 1 North, Range 5 East (personal communication, J. Cassidy, National Archives, June 27, 1989). Prior to that, scores of homesteads had been filed in the territory -- most of them along the Salt River Valley near present-day Phoenix, Tempe, and Mesa -- but all had been canceled or relinquished. Contrast this situation with that of Nebraska, where the first entry -- in fact, the first in the nation, the Daniel Freeman claim, filed on January 1, 1863-- culminated in the conveyance of a title patent, in 1869.

3. More homesteads failed than succeeded in our state. Records on file at the State Office of the Bureau of Land Management indicate that failures outnumbered successes throughout the history of the movement here.

4. Despite a high rate of failure, between 21,000 and 22,000 entries *were* successful in Arizona, resulting in the conveyance of title patents (BLM 1962: 2-28).

5. Over 4,748,000 acres in Arizona passed from public to private ownership through homesteading (BLM 1962: 2-28). Over 1 million of these were eventually repurchased by the government through the Bankhead-Jones Act, so that the land returned to public domain. Over 3 million acres *now* privately held in the state were acquired through homesteading.

6. Arizona as well as the nation as a whole experienced a peak in successful homesteading in the 1910s and a steady decline beginning around 1920 (Figures 1 and 2). The downward trend continued nationally *but reversed itself sharply in Arizona around 1930.* Our state then witnessed its second and final homesteading "boom" (from 1930 until around 1936) during the worst years of the Great Depression.

7. Railroads courted homesteaders assiduously. Increased settlement meant increased business along transportation routes, so companies such as the Atchison, Topeka, and Santa Fe (ATSF) formed Colonization Departments which promoted the process. Colonization Departments published literature which provided considerable technical information to the prospective homesteader -- on methods of dry-farming, for example -- but also glorified and romanticized a return to the land (ATSF 1910). The unrealistically high hopes fanned by such propaganda stood in marked contrast to the cautious approach urged by most government officials (Allen 1987: 133).

8. Arizona's genial climate boosted homesteading. A haven for respiratory sufferers since the turn of the century, Arizona became especially attractive to World War I veterans, many of whom had been mustard gassed or had contracted tuberculosis. General Hospital 20 in Prescott specialized in treating veterans with pulmonary diseases. Targeted by homesteading propaganda, the hospital's patients often filed Arizona claims upon their discharge.

Figure 1:
Number of Successful Homestead Entries in the United States and Its Territories, by Year, 1868 to 1944

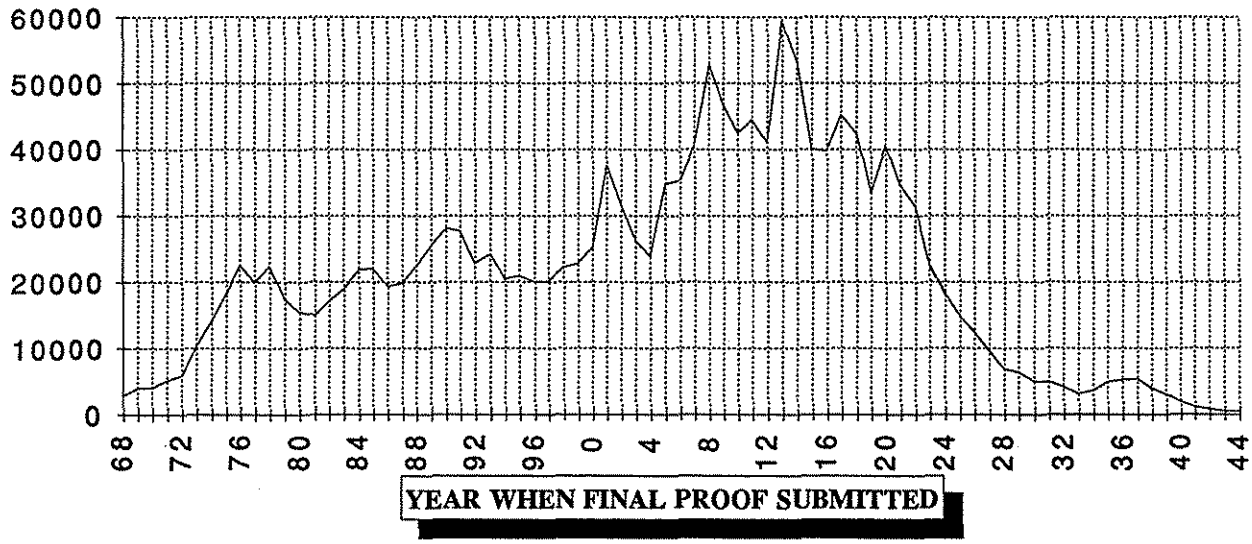
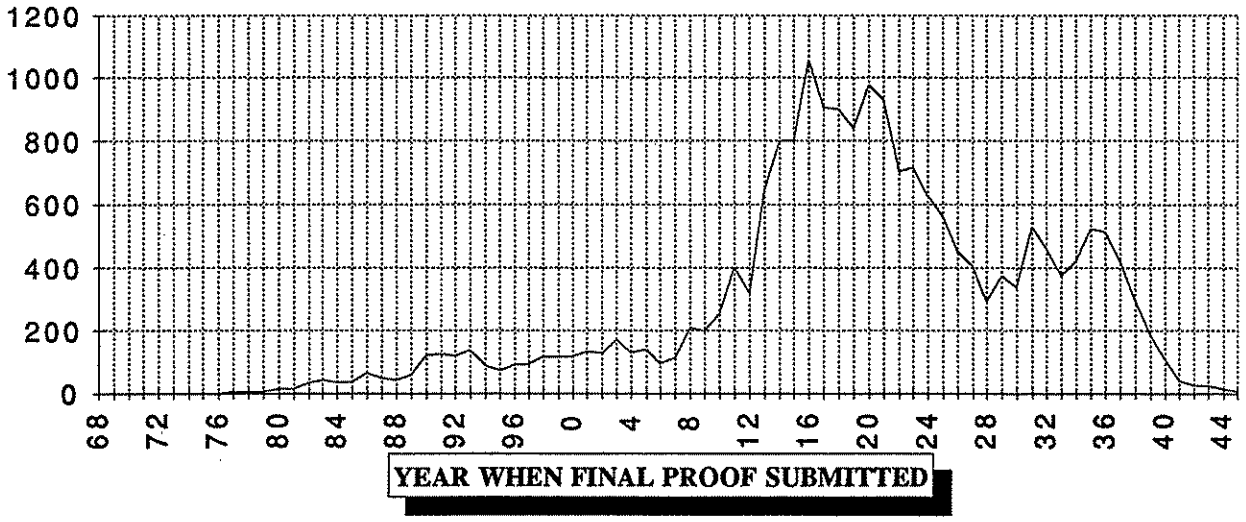


Figure 2:
Number of Successful Homestead Entries in Arizona, by Year, 1868 to 1944



9. In Arizona and the nation as a whole, minimal homesteading activity occurred after 1940 (Figures 1 and 2). Homesteading's "last stand" in Arizona appears to have occurred in Yuma from 1947 to about 1953, when the Bureau of Reclamation opened 107 family-sized units to entry under its "Gila" and "Yuma" projects (US Bureau of Reclamation 1952).

The effects of homesteading on our state and country were profound. It produced a stable and predictable relationship between government and citizen by which the latter could acquire land in exchange for conformance to the law; even in the most economically unstable times, homesteading offered an avenue toward advancement. Its battle cry, "Free land for the landless", drew pioneers from both home and abroad into a great migration. It promoted the development of small, family-sized farms and ranches, for decades the economic and sociological backbone of rural America. The homesteading process created a ripple effect in the economy which led to the formation of towns and cities. It reinforced the notion of America as a land of vast frontiers and limitless opportunities. And it strove to prevent the accumulation of very large holdings in the hands of a few people. The role of homesteading in strenghtening the democratic nature of this country would be difficult to overstate.

The Distribution of Homesteads in Arizona

Plat books on file at the State Office of the Bureau of Land Management indicate that homesteading occurred in every county and nearly every township in the state. There were homesteads amid forested as well as treeless lands, in mountains and high plateaus as well as lowlands, and along riverine and non-riverine areas. There was hardly an ecological niche in Arizona that homesteading didn't attempt to invade. Sometimes the process would be pared back as the government realized that claims had been entered illegally on preempted or reserved land, as happened at Fort McDowell just after the turn of the century. In 1903, while establishing an Indian reservation on the lower Verde River, the government determined that a community of homesteaders had squatted on parts of a former military reservation that were reserved from entry. The homesteaders were dismayed to learn that they had no rights to the acreage whatsoever, despite the fact that they had settled upon and improved it. Although the government was under no obligation to do so, it did, as a gesture of good faith, pay the settlers for the improvements they had made -- then evicted them. The Indians then moved in and took up many of the houses, canals, and other trappings the squatters had left behind (Stein 1984: 33-48).

One might be tempted to think that homesteading occurred only on what is now private land, but such is not the case, for several reasons.

1. As stated above, some homesteaders claimed areas they had no right to: land that had been preempted or reserved from entry. In such cases, the government would cancel the claim when the error was discovered. Sometimes the

government would catch the error and cancel the claim before the entryman attempted to settle on the land. Unfortunately, in many cases, settlement would precede cancellation; the unhappy claimant would be forced to relocate, leaving behind any non-portable improvements he or she had made to the property.

2. Thousands of patented homesteads were eventually bought back by the government and returned to the public domain. The Bankhead-Jones Act of 1937 facilitated such action.

3. Land exchanges are common in Arizona. Some trades are simple, involving just two parties, some are more complex, involving a few parties, and some are so intricate that one needs a scorecard to keep track of the players and moves involved. Through exchange, much land once patented as homesteads passed to federal, state, county, city, or Indian ownership.

The Property Type: How To Identify a Homestead and What You Might Expect to Find at One

The property type associated with homesteading is a homestead. If you come upon an old building or structure*, the ruins or remains of a building or structure, or trash deposits, how can you tell if they were once part of a homestead? What specific features might you expect to find at one?

To begin to answer the first question, plot the location of your find on a USGS topographic map (a 7.5 minute map is best) and calculate the township, range, section, and 1/4 section in which the property occurs. Then check this legal description in the Public Room of the State Office of the Bureau of Land Management (3707 N. 7th Street, Phoenix). The books you'll need to see are formally called the Master Title Plats with their Historical Index; in Phoenix, the BLM clerks commonly refer to them as the "township-range plat books", so you might ask for them by this name. These tomes tell where, when, and by what means land was purchased, deeded, or leased from the government. They even record unsuccessful claims. If the plat book column entitled "Serial File or Record Number" contains an entry marked "HE", "FHE", "ELE", or "SRHE" (abbreviations for "Homestead Entry", "Forest Homestead Entry", "Enlarged Homestead Entry", or "Stock Raising Homestead Entry", respectively), then you may indeed have found an old homestead.

So far you've determined that your find matches the location of an old homestead claim. Next, you need to see if the date of the claim matches the date of your find (hereafter called "the property"). This is trickier and takes a bit more sleuthing.

* A "structure" is a construction not used for shelter.