WILL TEST HOMESTEAD LAW

Omaha Attorneys Prepare Brief on Appeal of Mrs. Anna Bower, Sailor's Widow.

CASE WILL BE ARGUED IN WASHINGTON

Decision Will Apply to Numerous Other Cases and Determine Question as to Title of These Lands.

Afterneys Walter V. R. Berry and James C. Kinsler have filed with the secretary of the interior a brief in the matter of the appeal of Anna Bowes-a sailor's widowfrom the decision of the commissioner general of the land office of April 13, 1903, denying her the privilege of substituting a proposed affidavit for one filed June 6, 1901, when she made her homestead entry. No. 2278, at the Broken Bow (Neb.) land office for the southwest quarter of section 15, township 24, range 23, and from the decision on review affirming said decision and holding said entry for cancellation. The appeal involves, primarily, the interpretation of the construction of the act of congress relating to honorably discharged soldiers and sailors and their widows and orphan children to acquire homesteads on the public land of the United States.

Widow of Seaman.

The appellant is the widow of Stephen Bowes, a seaman of the United States during the civil war, and who subsequently served in the regular army, dying while in the latter service. He had failed during his life time to exercise his homestead right, and upon his death his rights thereto fell to his widow. On June 6, 1901, Mrs. Anna Bowes, the appellant, having been advised that the law did not require the widow of a deceased soldier or saflor making a homestead entry to reside on the land, made the entry herein cited.

Before making the entry Mrs. Bowes had agreed that she would allow the Standard Cattle company the use of her land pending final proof in consideration of its paying her a certain sum of money and making such improvements on the land as the government might require. She also agreed that the company should have the option of purchasing the land at a fixed price when she was in a position to give

Investigation is Begun.

Subsequently, in the month of July, 1901, the general land office, through its special agent, W. R. Lesser, began an investigation of this and a number of other similar homestead entries made under practically the same conditions. The result of this investigation was that in November, 1902, the commissioner general of the land office directed the officials of the Broken Bow office to notify the appellant and others to show cause why their entries should not be cancelled for illegality and fraud.

The appellant filed her showing within the prescribed time, but, being advised that the affidavit which she was compelled to sign at the time of making her entry was wholly inapplicable to the provisions and requirement of mection 2307 of the revised statutes, and wholly inconsistent with the rulings of the Interior department in regard thereto, she also filed her motion in the local land office to substitute a proposed affidavit in place of the one which, as she alleges, she had been wrongfully and unlawfully compelled to subscribe to, Her motion was overruled and an appeal taken to the commissioner of the general land office, who in April, 1908, affirmed the decision of the Broken Bow office denying Mrs. Bowes the right to substitute her proposed affidavit.

Mrs. Bowes' Contention.

was her contention that on applying to make entry, she need only to show herself to be the person entitled to benefits of the law, and on final proc that she had complied with all the requirements and provisions. The affidavit that she desired to substitute was in effect, "that she was the widow of the late Stephen Bowes, that she was not the owner of 160 acres of land and that she was unable to afford the expense of a trip to the United States land office at Broken Bow, which is 223 miles from her home."

The land office held that the petition t substitute the affidavit could not be allowed, no provision having been made under the laws for such an affidavit, and that the essential features required in all affidavits of homestead entries, which states that the applicant is not acting as the agent for any one, corporation or syndicate, for the purpose of giving them the benefit of the land, but that the entry is made in good faith to obtain a home for the applicant, and that she has not directly made any agreement or contract to alienate the land, etc., is entirely omitted from the substitute affidavit.

The attorneys for Mrs. Bowes maintain that under section 2307, Revised Statutes, that it is not essential that the widow of a soldier or sailor should reside on the land to enable her to make final proof. Numerous authorities and decisions are cited to substantiate this contention in the brief, which comprises forty-four

The case will be orally argued before the secretary of the interior September 3 by the attorneys and counsel in the case, The case is one that involves many hundreds of similar entries in Nebraska and the outcome of the decision will be watched with the utmost interest throughout the

COMMENDS ACT OF COUNCIL

City Hall Official Upholds Course o Refusing to Create Improvement Districts.

"The course taken by the council in refusing to create improvement districts until the petitions are filed with the city clerk is a good one," said a city hall official. "In the past and right now, for that matter, much paving is being held back, simply because the contractors who have worked up and hold the petitions refuse to file them. They procrastinate because they are afraid some other contractor will jump in and induce the property owners to use other material than egiginally planned for, or through fear of lower bids being submitted. Although property owners have been taught lessons of this kind time and again they still permit the contractors to circulate the petitions, instead of getting out and hustiling for them themselves and insuring prompt filling in the clerk's office. The system in which the contractor works up the petitions has produced much harm in past, and is one of the reasons why Omaha has been deprived of thousands of dollars of special taxes."

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Vin the Northwestern Line to Lake View, Iowa, and Return, Saturday, Aug. 29th, From Omaha 7:30 a. m., back home

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Only \$1.50, \$1.50, \$1.50.

City tickst offices 1401-1403 Farnam Street Let every old soldier and family plan to attend the reunion at Arlington Park August 25, 26 and 22.

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Children's \$3 Dresses at 98c

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Made of French ginghams piques, chambrays Percales, etc., in Russian blouses and sallor suits, prettily trimmed with laces and embroideries, hundreds different styles, ages 3 to 14 years, worth to \$3 each, today at

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40-inch fancy Zibeline Wixtures

An important item to remember in buy-ing the black dress is that the goods must be the best. This fall shows a beautiful collection o

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40c Wash Goods Closing Out at 7 1-2c.
Satin Striped French Batiste, figured and
embroidered, and Lace Striped Swisses,
soft finished Fercales, striped and floral
designs, Irish Dimities, dainty Zephyrs
and Scotch Madrases—worth up to 12c

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Macname lace striped Organdies, Linen
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Big Linen and **Domestic Depts.**

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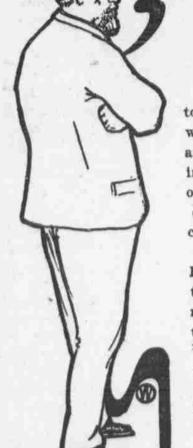
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