

OUR COUNTY . . .

Correspondents

TO CORRESPONDENTS.—All correspondents are requested to write on one side of the paper only. This will prevent our re-writing the matter written on the reverse pages, which must invariably be done, and will also prevent many interesting items from being entirely overlooked. Correspondents who are short on supplies should notify this office, and we will promptly furnish what is needed.

Eagle Point Eaglets.

BY A. C. HOWLETT.

Born.—To Mr. and Mrs. Joseph Riley, May 2, 1896, a daughter.

Mr. Beal, of Big Butte, was the guest of the Hoyt brothers last week.

Peter Simon, of the Pioneer hotel, was doing business in Medford last Saturday.

Rev. J. P. Moomaw will preach here next Sunday at 11 a. m., and 7:30 p. m.

Mrs. M. S. Wood and her daughter, Ora, started for Colestein to try the climate for Miss Ora's health.

J. S. Howard and one of the officers of the Rogue river ditch company were here the first of last week.

Misses Mattie Taylor and Millie Howlett visited Mr. Hoyt's family, on Big Butte, the first of the week.

Miss Mamie Wood was in Medford last Saturday attending to business for her mother, who is at Colestein.

Mrs. Geo. Morine and her daughter, Alice, started last Saturday to visit Mrs. M's father, Mr. Cliff, near Phoenix.

Prof. J. C. Barnard, who is teaching school on upper Rogue river, passed through town with his family last Friday on their way to Central Point to visit Mrs. B's parents.

Walker Lewis came down from his ranch, on Elk creek, after supplies. He reports having killed an enormous, grey wolf which was a terror to the stockmen in that locality.

Walker Lewis returned to his ranch on Elk creek last Monday. He and his father have taken claims adjoining and are building a house. As soon as it is completed they expect to move the family thereto. Mr. L., thinks that he has one of the finest locations in that part of the country.

In looking over the long list of new subscribers to THE MAIL I was surprised to see so many names of persons in the old states, among whom I recognized the name of B. B. Hubbard, of Pekin, N. Y. He used to be one of our townsmen and his many friends here will be glad to know that he hears from his old home regularly every week.

Mr. and Mrs. A. Hoyt, of Big Butte, were visiting their sons and also friends in this community the first of last week. Their son Ed. and A. V. Barnum started last Thursday for Klamath to join John Irvine, where they expect to be engaged in the dairy business. If the prospect seems favorable they expect to take their band of cattle to that range for the summer.

Gold Hill Items.

BY WILL.

Mr. McNeil is out on the mountains prospecting.

Miss Anna Clements visited friends here last Sunday.

Wat Wolf has found a rich pocket of ore on Galls creek.

Ed. Cardwell made a business trip to Sams Valley last week.

Geo. Brown, the Eagle Point merchant, was in town last Friday.

Mrs. Conner has gone to Cottage Grove on a visit to her son, R. A. Conner.

J. W. Masterson has gone to Astoria to represent the I. O. O. F. of this community.

Charley Golden expects to leave soon for San Francisco where he has a business location.

We have two Saturday night dances now, a new one having sprung up in the opera house.

Mr. Hubbard, of Washington, brother of Mark Hubbard, the blacksmith, is in Gold Hill at present.

Jay Purkeypille, our depot agent, spent Sunday night at home, caring for his father who has been quite ill.

Curt Parker and daughter, Miss Kate, Miss Ella Benson and Mrs. Williams made a trip to the Kullb mines Wednesday.

The three young ladies, who have been attending school here, Misses Anna Clements, Ella Benson and Katie Fries, were all successful in passing the late teachers' examination. Miss Clements will teach at Flounce Rock, Miss Benson at Prospect and Miss Fries at Mt. Pitt.

A Chinese wash bill which appeared in the circuit court proceedings of Coos county is proving quite a campaign document.

A turnpike road is to be constructed from Junction to Eugene.

McMinnville is to have a labor exchange.

MR. CROWELL'S LAND CASE.
(Continued from Page 4.)

Crowell is now possessed of 293 acres of land held under warranty deed, and being in excess of the amount of land permitted to be held by homesteaders under the act of March 3, 1891.

The final proof of said Crowell was taken and the witnesses thereto subjected to a cross examination by the protestant.

On July 14, 1894, the said final proof, protest and the testimony taken, were filed in this office.

Action thereon was suspended because of the land embraced in said entry, being, at that time, involved in a case before the Honorable Secretary of the Interior on a motion for review, filed by the state of Oregon.

On October 10, 1894, the Honorable Secretary of the Interior denied the motion for review filed by the state (18 L. D. 245), and the records being clear, the matter now comes up for decision.

On November 27, 1894, W. R. Willis, attorney for claimant, William S. Crowell, and A. M. Crawford, attorney for the protestant, W. A. Forbes, filed their briefs in said case.

From the testimony, final proof and records, it appears that the claimant herein made settlement on the set sec. 18, T. 40, S. 5, East, on August 15, 1890, the land at that time being unsurveyed; that the approved plat of survey was filed in this office on March 15, 1893, and on March 20, 1893, Crowell made H. E. No. 7564 for the set sec. 18, T. 40, S. 5, East, under the act of June 8, 1872; that he made improvements thereon consisting of a log house 12x16, woodhouse, well, etc., two acres cleared and fenced, valued at about \$500; that he had cultivated the clearing; that he had been absent considerable of the time because of ill health and on account of business; that the land is inaccessible in the winter time because of the deep snow, and that it is impossible to obtain medical assistance; that at all times his cooking utensils, farming implements, etc., were on his claim, and that he at all times claimed that his soldier's homestead and his home.

The cross examination goes to show that the claimant has not resided on his homestead continuously during the past 12 months; that he is and was at the date of his entry the owner of 293 acres of land, being in excess of the amount allowed under the act of March 3, 1891.

As to the allegation that the land is chiefly valuable for its timber, the only evidence we find in the record are the ex parte affidavits of G. W. Bailey, Peter Applegate and J. S. Howard.

It is a well settled rule that ex parte affidavits are not evidence. (3 L. D. 250; C. L. D. 440; 7 L. D. 433; 12 L. D. 68.) But it is contended by the attorney for the protestant, that if the affidavits are not considered, this office should order a hearing in order that the protestant may offer proof, and cite *Martensen vs. McCaffrey* (7 L. D. 315) and *Hoover vs. Lawton* (9 L. D. 273) but in these cases, an adverse claimant is referred to in every instance, while in this case the protest contains no mention of an adverse claim. Besides there is nothing in the record to indicate that the protestant desired any further hearing in the matter, but on the contrary everything goes to show that he rested his case on testimony adduced at time of final proof. The further fact that the affidavits of Applegate and Howard were made on July 10, 1894, the day of taking final proof, and the fact that Howard is a resident of Medford, the place in which final proof was made and Applegate a near resident, would indicate that they either would not testify or that the protestant did not desire them to do so. We do not think the point is well taken.

It is urged that the fact that Crowell is possessed of 293 acres of land in Jackson county, disqualifies him from making a homestead entry, because of the act of March 3, 1891, which says that a homestead entryman must not be the proprietor of more than 160 acres of land.

The third section of the act of May 17, 1896 (21 stat. 149) provides "That any settler, who has settled, or who shall hereafter settle, on any of the public lands of the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws . . . his rights shall date back to the date of settlement."

It is shown that Crowell made settlement on said claim in August 1890, nearly seven months prior to the passage of the act limiting a homesteader to 160 acres, and that at that date, August 1890, he was not the owner of any land in the United States, and that he purchased 293 acres of land in Jackson county, Oregon, in November 1890, and prior to the passage of the act of March 3, 1891.

Under the act of May 14, 1880 (supra) it is shown that the right of the homesteader relates back to the date of settlement, and such being the case, we are of the opinion that the rights of Crowell could not be affected by laws passed subsequent to the date of his settlement. At the date of settlement, the land was not surveyed and it was not possible for Crowell to make entry at that time. The approved plat of survey was filed in this office on March 15, 1893, and on March 20, 1893, five days after said plat was filed, Crowell made his application to enter, and the application was allowed. The fact of Crowell's ownership of 293 acres

must have been shown in his application at the time his said application was allowed, and as almost two years have elapsed since that date, and the entry has not been canceled, we are of the opinion that the entry is legal.

It is contended by the attorney for the protestant that the fact that Crowell was elected a school director in Jackson county, precludes Crowell from claiming a residence elsewhere. The claimant says he was elected to said office during his absence and without his knowledge or consent, and that he stated he did not think he was eligible on account of non-residence, but was told that he was in favor of good schools, and the people "wont kick" or they would not have elected him in his absence.

We do not think that the office of school director, in a country district, obtained in a manner set forth, would tend to establish a permanent residence according to Crowell's undisputed testimony, he told them of his ineligibility and acted as such, merely by request.

Another allegation herein is bona fides of the claimant. The question is, has the claimant complied with the law as to residence and cultivation and has he made said entry in good faith?

The testimony of the claimant shows that he settled on the set sec. 18, T. 40, S. 5, East on August 15, 1890, almost four years prior to the commencement of this contest, and during the period extending from that time down to July 10, 1894, the date of final proof, he was never absent as long as six months at any one time.

Claimant says that because of the high altitude and deep snow, and because of chronic heart and liver trouble he was not able to remain on his land in the winter.

It has frequently been held that "absence (from homestead) is excused in winter when the altitude of the land is such as to prevent residence throughout the entire year." (6 L. D. 811; 9 L. D. 450) Also "Temporary absence occasioned by ill health do not interrupt the continuity of residence." (5 D. D. 215; 8 L. D. 353; 9 L. D. 146)

The improvements of Crowell are not disputed and the evidence shows that until the present time he was able for timber in that section and that it would have been waste to have destroyed any quantity of the timber; that a road has lately been built in the vicinity of this tract and that it is now more valuable than at the date of claimant's settlement, and that other parties now want it.

The fact that Crowell settled thereon nearly four years prior to the commencement of this contest, and made improvements to the value of \$400 or \$500, and at a time when there was no sale for timber, would indicate that the entry was not speculative, as asserted.

The record shows that Crowell is an honorably discharged soldier of the rank of captain and under the act of June 8, 1872, is entitled to the term of 3 years and 7 months, being the term of his service, to apply on the residence of five years, required in homestead entries. Therefore, proof of residence for a period of one year five months is all that is necessary to complete the entry.

The fact that settlement was made thereon in 1890 and that improvements and residence had been maintained during the term extending down to the present, shows to our minds that the entry was made in good faith.

We are therefore of the opinion that the protest of W. A. Forbes should be dismissed, and the final proof of William S. Crowell on his H. E. No. 7564 for the set sec. 18, T. 40, S. 5, East should be allowed, and we so decide.

Thirty days are allowed in which to appeal from this decision to the Honorable Commissioner of the General Land Office.

R. M. VEATCH, Register
R. S. SHERIDAN, Receiver
DEPARTMENT OF THE INTERIOR, General Land Office, WASHINGTON, D. C., August 12, 1895. MESSRS. GEO. C. HAZLETON AND BENJ. BUTTERWORTH, Attorneys at Law, Washington, D. C. Sir:—Referring to your appearance for the defendant in the case of W. A. Forbes vs. W. S. Crowell, involving homestead entry No. 7564, Roseburg, Oregon, Land Office, you are hereby notified that by letter of this date, directed to the local officers, said case was decided in favor of the defendant.

Respectfully,
E. F. BEST,
Acting Commissioner.

The following is the full decision of the general land office at Washington, D. C., in Mr. Crowell's favor:

DEPARTMENT OF THE INTERIOR, General Land Office, WASHINGTON, D. C., August 12, 1895. W. A. Forbes vs. W. S. Crowell—Involving H. E. No. 7564 made March 20, 1893. REGISTER AND RECEIVER, Roseburg, Oregon. GENTLEMEN:—On March 20, 1893, defendant made homestead entry for the set sec. 18, in T. 40, S. 5, E. W. M.

On July 10, 1894, Crowell made final proof on Soldier's H. E., for the land herein involved, before Austin S. Hammond, U. S. commissioner at Medford, Oregon, after due notice by publication, as required by law.

On that day appeared W. A. Forbes, the plaintiff, who filed protest against the final proof being accepted, alleging "that the claim filed on by Crowell is chiefly valuable for its timber and is not generally agricultural land; that Crowell has not complied with the law in regard to residence, in that he has continuously resided in Jackson county, Oregon, since making his homestead entry, and that said Crowell is now possessed of 293 acres of land held under warranty deed, and being in excess of the amount of land permitted to be held by homesteaders under the act of March 3, 1891."

The final proof witnesses were subjected to a cross examination by the (protestant) plaintiff.

On July 11, 1894, the final proof, protest and testimony taken, were filed in your office.

Action thereon was by you suspended because the land embraced within the defendant's said entry was, at that time, involved before the secretary, on a motion for review, filed by the state of Oregon.

On October 10, 1894, the secretary denied the motion for review filed by the state (19 L. D. 290).

On January 10, 1895, you rendered your decision, dismissing plaintiff's contest, and recommended that defendant's final proof should be allowed.

On February 2, 1895, plaintiff appealed from said decision, assigning that you erred in holding that the affidavits of Bailey, Applegate and How-

ard, could not be considered as evidence in the case; that you erred in holding that plaintiff was and is not entitled to a hearing, to enable him to furnish proof of the matter set forth in said affidavit; that you erred in holding that the homestead claimant did not disqualify himself from entering land under the homestead laws of the United States by the purchase of 293 acres of agricultural land prior to making his said homestead entry; and that you erred in awarding the land to defendant and admitting and accepting his final proof.

From the records it appears that the plaintiff filed before Austin S. Hammond, commissioner, the ex parte affidavits of G. W. Bailey, Peter Applegate and J. S. Howard, tending to show that the land is chiefly valuable for its timber.

As it is a well settled rule that ex parte affidavits cannot be considered as evidence in a contest case, said affidavits will not be considered by me.

From the testimony it appears that the defendant settled on the land August 15, 1890, the land at the time being unsurveyed; that the approved plat of survey was filed in your office March 15, 1893, and on March 20, 1893, defendant made his H. E., for the land involved, under the act of June 8, 1872; that he made improvements thereon, consisting of a log house 12x16, woodhouse, well, about four acres cleared and fenced, valued at about \$500; that he had cultivated the cleared land each year from 1890 to and including 1894; that he had been a soldier in the late war and had been commissioned to the grade of captain; that while in the U. S. service he had contracted chronic diarrhoea; that he has for several years past had heart and liver trouble, which incapacitated him from doing much physical labor; that he has almost continuously been under the care of a physician; that he had been absent considerable of the time because of ill health and on account of business; that the land is inaccessible in winter, because of the deep snow, and it was impossible to obtain medical assistance, as the land is thirty miles from a physician; that all his cooking utensils, farming implements, etc., have remained on the land all the time; that he has never been absent from the land six months at one time; that he was the owner of 293 acres of land at the date of entry, but he was not the owner of any land at the date of his settlement; that he purchased the 293 acres in November, 1890, and prior to the act of March 3, 1891; that during the time he was living on his homestead and without his knowledge he was elected school director in Jackson county, the county in which the 293 acres is situate.

It is contended by plaintiff's attorney that if the affidavits heretofore referred to are not considered, your office should have ordered a hearing, in order that he might offer proof, and cite *Hartensen vs. McCaffrey*, 7 L. D. 315, and *Hoover vs. Lawton*, 9 L. D. 273; but in these cases adverse claimants are referred to, while in this case the protest contains no mention of adverse claim. Besides I find nothing in the record to indicate that the plaintiff desired any further hearing in the matter, but it appears that he rested his case on the testimony adduced at the time of final proof. The fact that the affidavits were taken on the day of making final proof would indicate that they either would not testify or that plaintiff did not desire them to do so. The point is, therefore, not well taken.

It is contended that the fact that the defendant is the owner of 293 acres of land disqualifies him from making a homestead entry, because of the act of March 3, 1891, (26 Stat., 1095) which says "but no person who is the proprietor of more than one hundred and sixty acres of land in any state or territory shall require any right under the homestead law."

The third section of the act of May 14, 1880, (21 Stat., 140), provides "That any settler who has settled or who shall hereafter settle, on any public lands in the United States, whether surveyed or unsurveyed, with the intention of claiming the same under the homestead laws, his rights shall date to the date of settlement."

It is shown that defendant made settlement on said claim in August, 1890, nearly seven months prior to the passage of the act limiting a homesteader to 160 acres, and at that date, August 1890, he was not the owner of any land in the United States, and that he purchased the 293 acres of land in November, 1890, and prior to the passage of the act of March 3, 1891.

Under the act of May 14, 1880, above mentioned, it is shown that the rights of homesteaders relate back to the date of settlement, and such being the case, I am of the opinion that the rights of the defendant could not be affected by laws passed subsequent to the date of his settlement.

At the date of settlement the land was not surveyed, therefore he could not make entry at that time. Five days after the plat of survey was filed in your office defendant made his application to enter, which was allowed, and as more than two years have elapsed since that date and the entry has not been canceled, I am of the opinion that the entry is legal.

It is also contended by attorney for plaintiff that the fact that the defendant was elected a school director in an adjoining county precludes him from claiming a residence elsewhere.

Defendant stated that he was elected without his knowledge or consent, and that he did not think that he was eligible to hold said office, on account of non-residence, and was told that the people would not "kick." I do not think that the office of school director in a district would tend to establish a permanent residence.

Even if it should be admitted that he held the office legally, he would have the right to move to the place to hold the office.

The question then is, has the defendant complied with the law as to residence and cultivation and has he made said entry in good faith.

As he settled on the land August 20, 1890, almost four years prior to the institution of this contest, and never was absent as long as six months at any one time, and made improvements of the value of about \$500, would clearly show that his entry was not made for speculation, as asserted.

For the reasons herein given, your decision is sustained and the plaintiff's contest is dismissed.

You will notify the parties herof and the plaintiff of his right of appeal.

Respectfully,
E. F. BEST,
Acting Commissioner.

WHY OUR NERVES PLAY OUT.

An Analysis of the Conditions which are Responsible for it.

Wonderfully Good Results from the Famous Pink Pills—Brain Wear Checked—Testimony as to Their Merits which Commands Attention.

They are Richer Food for Blood and Nerves than Quantities of Beef and Bread.

From the Examiner, San Francisco, Cal.

The prevalent maladies of diminution of the vital powers, undue physical fatigue and mental exhaustion, are to-day engaging the careful attention of the most eminent pathologists. Their prevalence is ascribed to poisoning through alcoholic drinks, opium tainted and adulterated foods, contaminated water, the vitiated atmosphere of towns, the continuous jar and rumble of railroad trains, the flashing of electric lights, the clangor of street cars, the jingling of telephone bells, the vertigo producing effects of lofty buildings and swift elevators, the perpetual noises and shifting sights of city streets, all the constant activities, the simplest of which involve an effort of the nervous system and a wearing of tissue.

A German author in a recently published work calls attention to these numerous influences that beset the end of the century and points out that the enormous increase in nervous expenditure has not and can not have a corresponding increase of supply in the food we eat. Even if we had the choicest food in the greatest abundance it could do nothing toward helping us, for we would be incapable of digesting it. Our stomachs can not keep pace with the brain and nervous system. The latter demand much more than the former are able to furnish and as the inevitable consequence then comes disaster. The strongest may keep up but the weaker fall by the way. Mankind has become fatigued and exhausted and this fatigue and exhaustion make themselves manifest in the increase of nervous disorders, including such new affections as the "railway spine" and "railway spine," the increase of heart disease, the prevalence of precocious dental decay and baldness, of nearsightedness and deafness and premature old age. To counteract the incessant strain on the nerves and to replenish the wear and tear on the brain caused by every line we read or write, every face we see, every conversation we carry on, every scene we perceive, every noise we hear, every impression we receive is precisely the province of Dr. Williams' Pink Pills for Pale People. They are designed to fill the void in the nourishment of the nerves and brain that no amount of choicest food can fill. In a concentrated form is infinitely richer food for the blood, and the blood is the life of the nerves, than in vast quantities of beef and bread.

It is generally agreed that a man's physical condition is dependent, to a great degree, upon the nature of his employment. Men whose occupation necessitates the constant use of the brain, without any opportunity for physical exercise, are generally nervous while men employed at manual labor requiring no exercise of the brain function, are almost universally possessed of sound nervous systems, not easily disturbed by exciting events.

A striking illustration of this principle is found in the case of Professor George E. Coleman, who is a professional pianist, and who, until within recent years, a druggist. Professor Coleman lives at 1530 Buchanan Street, San Francisco. He is well known here as a pianist, having played at some of the most popular music halls in the city. Mr. Coleman is not a man of strong frame, and he has been an easy prey to the severe, nervous tension of his work at the piano. He has had to play continuously for several hours during every evening for five years, and his nervous system finally gave way under the strain. He was forced to retire from regular work at the piano, but that did not have the effect of improving his condition. Upon the contrary, he steadily grew worse. His nerves had been shattered, and in addition he discovered that one of his lungs had been affected by his having been exposed to counter draughts in poorly ventilated halls. His condition soon became such that he was confined to his home, and finally gave himself over to the care of a physician. Mr. Coleman's experience as a druggist had given him an acquaintance with diseases and their remedies, so he had a full knowledge of just what was necessary on his part to effect a cure.

"After several weeks' careful treatment by the physician," said Mr. Coleman, "I could notice no improvement in my condition. If anything, I think I was considerably worse. The action of my lungs had become so weak that I was afraid to walk any distance unassisted for fear of falling, through loss of respiration. My nervousness had advanced to an alarming stage. I was not able to contain myself for even a short time, but had always to be humiliated with something or moving nervously about the room. It was while I was in this condition that I noticed in a paper an article on Williams' Pink Pills. I determined to try them, even though they killed me. Well, they didn't kill me, but I'm not going to tell you that they were immediately successful. My case was much too serious for that. But I had not taken a full box before I felt a great relief. My respiration was more certain. I was gradually regaining control of my nerves and my condition was generally improving. I kept right on taking the pills and getting well. Now, I had taken just three boxes of them when I considered myself a cured man. And I was right, for although I quit taking the pills, I did not relapse into my former condition, but grew stronger daily."

"It was truly a marvelous cure, and I will say that I think Williams' Pills possess remarkable curative properties, and I would recommend them to the use of the thousands of people of this city who are nervous wrecks, or who are suffering from diseases of the lungs."

The foregoing is but one of many wonderful cures that have been credited to Dr. Williams' Pink Pills for Pale People. Diseases which heretofore have been supposed to be incurable, such as locomotor ataxia and paralysis, or who are suffering from diseases as readily as the most trifling ailments. In many cases the reported cures have been investigated by the leading newspapers and verified in every possible manner, and in no case has the least semblance of fraud been discovered. Their fame has spread to the far ends of civilization and there is hardly a drug store in this country or abroad where they cannot be found.

Dr. Williams' Pink Pills contain, in a condensed form, all the elements necessary to give new life and richness to the blood and restore shattered nerves. They are an unfailing specific for such diseases as locomotor ataxia, partial paralysis, St. Vitus' dance, sciatica, neuralgia, rheumatism, nervous headache, the after effect of influenza, palpitation of the heart, pale and sallow complexion, all forms of weakness either in male or female. Pink Pills are sold by all dealers, or will be sent post paid on receipt of price, 50 cents a box, or six boxes for \$2.50, by addressing Dr. Williams' Medicine Company, Schenectady, N. Y.

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