

they were living in most friendly relations with the fathers. All, saints and sinners, were braving the same dangers and enduring similar hardships. On their part our simple-minded missionaries fell easily into the comfortable conviction "That the world was made for the saints, they were ——— therefore ——— Q. E. D."

During the civil war the post of Vancouver barracks was in charge of volunteer troops, but was reoccupied by regular troops in 1866. The double occupation and official courtesy status continued until 1880, when a ruler arose who knew not Joseph. Soon after General Nelson A. Miles assumed command of the department the records show that vigorous investigation was started to ascertain the precise relations which had subsisted between the so called mission of St. James and the Hudson's Bay company. This resulted in securing a number of letters and affidavits from officials and confidential servants of the company, all to the effect that there never had been any divided control between the mission and the company; that the authority of the company over this post was absolute and undivided; that they fed, housed and paid the priests and indignantly denied that the latter ever exercised any authority which could have given them any rights under the law of 1848. But General Miles was relieved of the command of this department before he could force an issue. In the meantime the grind in the circumlocution office went on and the cause remained suspended, like Mohammed's coffin, between heaven and earth. After the lapse of thirty-eight years, the spell was at last broken, by the post commander tearing down the fence around the five acres held by the church within the government reservation, and, indeed, invading the half acre itself. This was done to force the church to take the hot end of the poker. As the authorities in Washington would not take action, this trespass on the mission ground left its representatives no alternative but to ask a restraining order, or injunction, from the courts. To do this they had to bring a suit and in doing so, had, of course, to set forth in full, their title to the property they claimed. The mills of the gods grind slowly, yet it was a great point gained that this case was at last thrown into the hopper. For years the bishop of Nesqually (Washington territory) had been clamoring for a decision, but at this juncture he discovered that he wished a department and not a judicial decision. He wrote to General Sheridan asking that the action of the post commander might be disapproved. Fortunately "Little Phil's" sense of duty was stronger than religious or personal predilections. In answering the bishop he turned upon him St. Matthew's text, "For all they that take the sword shall perish with the sword" by saying "Bishop, you have appealed to the law and by the law you must abide," so, of course, the contest went on. First came an order restraining the military authorities from exercising control over that part of the reservation in dispute (430 acres) and giving twenty days in which to show cause why this injunction should not be made perpetual. Accordingly the department and post commanders and post quartermaster had to go to Olympia to show cause why. There they met the U. S. district attorney who had been instructed to intervene in behalf of the United States. Then the church filed a complaint, or bill in equity, which, stripped of its legal verbiage, amounted to this: That the bishop was, by statute of the territory, a corporation sole; that as such he represented the mission of St. James; that this mission having been an actual mission in the Indian tribes on August 14, 1848, was entitled to 640 acres of land. That the Hudson's Bay company, having only a license to trade with the Indians, had no right to acquire a title in fee simple in this particular 640 acres; that as the company had, under the treaty of 1846, a right of occupancy until the expiration of its license in 1859, they, the plaintiffs, were debarred until that time from making good their title. The complaint then recited at length the decisions and counter-decisions of the surveyors general, the attorneys general, the commissioners and secretaries, and finally set forth, that they had to bring a suit in equity because the secretary of the interior had made a mistake in law; that he was right in his decisions as to the questions of fact which induced him to offer them a patent for a half acre, but wrong in not extending his ruling to the whole 640 acres. Therefore they claimed that the court was bound by the decision of the secretary as to facts and also bound to correct his erroneous decision as to the law. Here was a brilliant piece of legal legerdemain, worthy of the united talents of churchmen and lawyers, a bold attempt "to tangle justice in her net of law." The complaint wound up with the statement, "That the defendants, John Gibbon, T. M. Anderson and E. T. Yeatman, officers and soldiers of the United States army, on or about the 4th day of January, 1887, and on divers days and at divers times thereafter, accompanied by soldiers under their command and acting by their authority and direction, entered upon that portion of said four hundred and thirty acres of land which has so been in the exclusive occupancy and possession of said church, and of plaintiff as its lawfully appointed agent to hold such possession, and, pretending to be thereunto authorized by said war department of the United States, forcibly tore down and removed fences and enclosures of plaintiff thereon, of long standing, and dug up and plowed the soil, and cut down and destroyed valuable fruit-bearing orchard trees, and also ornamental trees, planted and growing thereon, the property of the plaintiff and of said Catholic church; and said defendants are threatening, intending and pro-

ceeding to, and will, unless enjoined and restrained from so doing, cut down and destroy many other valuable fruit, orchard and ornamental trees upon said premises," and so on to the end, claiming all sorts of damages and costs.

At the preliminary hearing the post commander made the point that the Roman Catholic church was a foreign corporation and therefore could not claim the benefit of the mission clause in the law of 1848. The lawyers received the proposition as a jest and the court "smiled and passed the question by," but the point was destined to receive more serious attention. At this hearing in chambers, February, 1887, the court dissolved the injunction as to all except the five acres actually enclosed. At the spring session of the court held at Vancouver in April, 1887, the answer of the respondents was filed and the law points argued in demurrer before Judge Allyn. At this hearing all the points of the complainant's demurrers were overruled, the injunction dissolved as to all except the forty-six-one-hundredths of an acre, and the testimony was ordered to be taken before a commissioner and then submitted for consideration at the next session of the court. It now became evident that the crucial question was this: Were the priests at the Hudson's Bay post of Vancouver acting as missionaries to the Indians on August 14, 1848? To meet this question, the writer hunted up dozens of old settlers and wrote scores of letters. Out of the whole number there were few who had personal knowledge of facts transpiring prior to August, 1848; nevertheless, when the time came, both the church and the military had mustered quite a number of witnesses.

The leading witnesses for the church were a Father Joseph Joet, an old Jesuit priest who succeeded Father DeSmet in his mission in the Cour d'Alene country, Joseph St. Germain and Marcel Bernier, old Canadian French trappers and *couriers du bois*, August Rochon, a servant of the priests Blanchet and Demers when they came here in 1838, Mary Petrain, a wife of one of the old Hudson's Bay company's servants, Mary Proulx, the first woman married in the church, and, finally, one Francis A. Chamberlain, an employe of the Hudson's Bay company, the only one who testified in favor of the mission. They were a queer looking lot, antiquated and awkward, soiled, snuffy and redolent with a rather too pungent odor of sanctity. By their talk and manner they recalled the traditions of a buried past. If they had all floated down the Columbia in a canoes, with red blankets around them, it would have seemed natural and proper. The leading witnesses for the defense were John Stensgaard and Napoleon McGillivray, old Hudson's Bay company servants, Wm. H. Gray, the historian of Oregon and an early pioneer, Wm. H. Dillon, Peter W. Crawford and Silas D. Maxon, Charles J. Bird and John J. Smith, county officials and surveyors, Louisa Carter and Sarah J. Anderson, women who came out as early as the Whitman massacre, and, finally, General Rufus Ingalls and Mr. Lloyd Brooks, who represented the quartermaster's department. These witnesses were also advanced in years, but they looked like people who had kept up with the procession. The first set of witnesses swore positively that the mission people were entirely independent of the Hudson's Bay company and intent solely on the saving of souls. The worldly witnesses swore point blank, that the priests were paid and willing servants of the company, and that it was the trappers who converted the Indian women and that the church here was not a mission, but a congregation. The contradictory character of the evidence recalled at times Falstaff's cynical apothegm, as to the world being given to lying. The trial also brought to light the fact, that the record of the first injunction suit against the post authorities had been cut out of the first record book of the county court and the book itself thrown in the river; but it was recovered, water-stained and mutilated. The testimony of the old witnesses was, apart from its legal value, very interesting. It recalled the feudal ways of the old Hudson's Bay barons, the contrasted savagery and gentleness of the Indians, the wild ways of the pioneers, the zeal of the priests, the earnestness of the Protestant missionaries. One of the questions at issue was: What was a mission? The answer revealed by a strange side light, the difference in the motives and methods of the Catholic and Protestant missionaries. To the first a mission meant a cross raised in the shadow of the woods, the baptism of the savages and the saving of souls. To the latter a mission meant work, the virtue of water was cleanliness, and the savage was to be Christianized by first being civilized.

Of one of the witnesses for the government, it is just to pay a tribute of well deserved respect. General Rufus Ingalls was the post and department quartermaster during the entire development of this controversy. Whoever else may have been careless and confiding, certainly he never was; he was always vigilant and vigorous in maintaining the rights of the government, and his testimony for the defense had no uncertain sound. The case came up for trial on its merits, that is, on the evidence, and not merely on the law points, before the district court at Vancouver at the spring term in 1888. It was argued by District Attorney W. H. White for the government and by Whalley, Bronaugh & Northrup, counsel for the church. It was decided by Judge Allyn in favor of the defendants. Appeal was then taken to the supreme court of the territory of Washington, and it came up for hearing in January, 1889. After full argument the court decided that the plaintiff had legal remedies for all wrongs complained of and should not have brought