

THE MORTGAGE LAW.

Declared Unconstitutional by the Supreme Court.

Olympia, Wash., Sept. 27.—The supreme court today affirmed judgment in the case of Nathaniel R. Swinburne, respondent, vs. the Sheriff of Pierce county, appellant—a case that involved the legality or application of the act passed by the last legislature relating to the sale of property under execution and decree, and the confirmation of sheriff's sales.

The case was appealed from the superior court of Pierce county, when a peremptory writ of mandamus was granted against the sheriff, commanding him to proceed with the sale under a special execution and order, issued on June 24, 1897, in the case of Swinburne vs. Delane, and to advertise certain mortgaged property for sale to satisfy the judgment in the said case, without appraisal or without requiring either the judgment creditor or debtor to fix a value upon the mortgaged property at a minimum price for sale, and to proceed at once under the old law regarding such sales, without regard to the recent act of the legislature regulating such matters.

The respondent contended: First—That neither the title nor the body of the act sustained the contention that the law applies to foreclosures of mortgages.

Second—That it was not the intent of the legislature to make the law retroactive; and

Third—That, if the law does apply to mortgages as it was intended to be retroactive, that portion relating to a year's stay of sale and the provision for fixing a valuation are unconstitutional, because obnoxious to section 10 of article I of the constitution of the United States regarding impairment of contracts.

Regarding the first contention, the supreme court holds that it was evidently the intent to include mortgages as well as mortgages sold under execution. Also, that it was the intention of the legislature to make the provisions of this act retroactive.

In holding the act unconstitutional in its application to contracts made prior to the passage of the act, the court devotes some attention to the principle of the inviolability of contracts, which is founded upon honesty and good faith, supported in ethics as well as law. It is the value of a contract that is deteriorated or lessened by the passage of an act, the obligation of the act is most certainly impaired. It is a principle of law that the law which is in existence at the time a contract is made becomes a part of the contract. In this case it was expressly stipulated in the mortgage that the law in force at the time the contract was made should become a part of the contract, but in the absence of such stipulation the effect would be the same. Under the law, when the contract was made, the mortgagee had a right to the sale of this land at once upon the issuance of his execution, subject only to redemption. This was a valuable right, and was not taken into consideration by the judgment creditor, or in this case the mortgagee. The law now compels him to wait more than a year after judgment before he can have the same made, and, says the court, it seems beyond controversy that, as to antecedent contracts, this provision of the law is void.

Defenses at the Golden Gate. San Francisco, Sept. 27.—The United States engineers in charge of the harbor fortifications of San Francisco have directed that a survey be made on the shore line on the south side of the bay, and the Golden Gate, from Black point to Point Lobos. The purpose of the survey, which has just begun and will be completed in a week, is to accurately locate the forts for the information of the war department.

Army and navy officers here think the harbor defenses are now sufficiently well advanced to stand off any fleet that Spain or Japan could put into action here, and they are strong enough with the assistance of the batteries of the Monterey and Montadnock type and with the aid of torpedoes to make a splendid fight against the best fleet England would be likely to send here.

Punishment of King of Benin. Lagos, West Coast of Africa, Sept. 27.—Drunami, the king of Benin, who has been on trial at Benin City since August last, with a number of his leading chiefs, charged with being concerned in the massacre of the unarmed expedition under British Consul Phillips, has been condemned to be transported to Calabar, a slave settlement of British West Africa. Three of the king's chiefs were previously sentenced. Two of them were shot and their bodies displayed hanging in the streets for 24 hours. The third of these chiefs escaped a similar fate by committing suicide.

Typhoid Wiping Out a Family. Greensburg, Ind., Sept. 27.—An unusually peculiar case of family affliction is reported from Forest Hill. Two weeks ago the eldest brother of Mrs. Finley Sanderson died of typhoid fever. A few days later her mother passed away from the same disease, and the fever claimed her husband last Saturday. Yesterday she herself succumbed to the malady, and now two of her children are lying at the point of death.

Wheeling Carries Dispatches. San Francisco, Sept. 27.—The gunboat Wheeling sailed for Honolulu tonight. She was obliged to fill vacancies in her crew by drafting 40 men from the monitor Monadnock. The Wheeling carried dispatches to Honolulu in advance of the regular mail steamer.

Greensburg, Ind., Sept. 27.—Charles Gallagher, an aged flagman at a Big Four crossing in this city, was struck by an engine and killed.

Mobile, Sept. 27.—So far there have been 33 cases pronounced yellow fever, three having died, 16 having been discharged, and 24 remain under treatment.

Tonight another death was added. John Bourne, chief clerk of the Louisville & Nashville shops.

DEATH IN DYEA PASS.

Eighteen Packers Barred Under a Monster Avalanche.

Port Townsend, Sept. 27.—The steamer Pioneer, which left the Sound September 12 with the bark Shipley in tow for Skagway, returned at 1 o'clock this morning, having made the run down in 96 hours.

The Pioneer brings down a story of a snow or landslide between Sheep Camp and Chilkoat pass last Sunday morning in which 18 men are supposed to have lost their lives; only one body had been found, that of a man named Choyneki, cousin of Joe Choyneki, the prizefighter. The 15 or 18 men supposed to be lost were packers on the Dyea trail, and they had upwards of \$30,000 in their possession.

There are many here who do not believe the story, as it is very early in the season for snow slides. Officers of the Pioneer say the story was brought to Skagway Sunday evening by three men, who told it in such a thrilling manner as to leave no doubt as to its truthfulness. They described the avalanche as consisting of rocks, ice and dirt, the mass having been loosened by the recent unprecedented hard rain which has been falling continuously for the past month.

All the bridges on the Skagway river have been washed out and the river is a raging torrent.

W. W. Sprague, of Tacoma, who started eight weeks ago with a three-man outfit, returned from Skagway on the Pioneer.

The steamer Al-Ki, a week overdue from Alaska, arrived this morning at 4 o'clock. She carried a large list of men returning from Skagway, who were unable to cross the pass. The snow is six inches deep at Lake Bennett, and three inches fall on the summit of Chilkoat pass last Saturday.

The Story Corroborated. Port Townsend, Wash., Sept. 27.—Captain Neilson, master of the tug Pioneer, corroborates the story of the snowslide, or more appropriately, landslide, in the neighborhood of Sheep Camp.

Three men came to Skagway beach prior to the passage of the act, the court devotes some attention to the principle of the inviolability of contracts, which is founded upon honesty and good faith, supported in ethics as well as law. It is the value of a contract that is deteriorated or lessened by the passage of an act, the obligation of the act is most certainly impaired. It is a principle of law that the law which is in existence at the time a contract is made becomes a part of the contract. In this case it was expressly stipulated in the mortgage that the law in force at the time the contract was made should become a part of the contract, but in the absence of such stipulation the effect would be the same. Under the law, when the contract was made, the mortgagee had a right to the sale of this land at once upon the issuance of his execution, subject only to redemption. This was a valuable right, and was not taken into consideration by the judgment creditor, or in this case the mortgagee. The law now compels him to wait more than a year after judgment before he can have the same made, and, says the court, it seems beyond controversy that, as to antecedent contracts, this provision of the law is void.

"The slide struck the town in the northern part, where nearly all the packers were quartered in tents and sleeping the sleep of hard-worked men. The main part of the slide from the mountain missed Sheep Camp proper, although from the report very little of the town remains. Packers' camp was wholly carried away, and it is impossible to learn the full names of the unfortunate, as they were all known by surnames such as Jack, Jim, Dick, etc."

"The cause of the slide was reported to be the action of heavy rains on the hills where a sort of reservoir was formed, which body of water forced the land down into the basin below. Never before have such heavy rains been experienced by old Indians in the neighborhood of Chilkoat pass."

W. W. Sprague, of Tacoma, returning from Skagway pass, verifies the above report.

THE UMPIRE CHOSEN.

Fifth Arbitrator of the British-Venezuela Boundary.

Washington, Sept. 27.—A final decision has been reached by the arbitrators who are to determine the British-Venezuela boundary line as to the fifth arbitrator, or umpire, who is to act with him. His name is for the present withheld. It is not Baron Courcel, whose name has been mentioned in this connection, nor King Oscar of Sweden, who was to name the umpire only in case the arbitrators failed to agree. An agreement was reached without the necessity of calling on the Swedish sovereign. The umpire is an European, but this is said to be without significance, since no question involving the Monroe doctrine is to be submitted to the tribunal. The arbitrators on behalf of Venezuela are Chief Justice Fuller and Justice Brewer, of the supreme court.

A Livestock Trust. Washington, Sept. 24.—Assistant Attorney-General Boyd, of the department of justice, in charge of the case against the South Omaha Livestock Exchange, says he is satisfied the South Omaha exchange was organized on lines similar to those of the Kansas City exchange, which was a few days ago declared a trust by Judge Foster of the United States district court.

The suits against Western livestock exchanges begun under Attorney-General Harmon, of the Cleveland administration, but the present administration is prosecuting them with all possible vigor.

Killed by a Landslide. London, Sept. 27.—A private dispatch from Rome says that about 40 persons were killed and many others injured by an earth slip at the sulphur mines near Girgenti.

Train Plunged Into a River. Madras, Sept. 27.—Floods have washed away a bridge on the Bengal-Mysore railroad near Maddur. An engine and five cars filled with passengers were precipitated into the river, causing great loss of life.

Gasoline Stove Exploded. Chicago, Sept. 27.—One man was fatally burned and six others persons injured last night by an explosion of a gasoline stove on West Adams street.

Greely Relics Discovered. Philadelphia, Sept. 27.—Lieutenant R. E. Peary, the Arctic explorer, arrived in this city last night. He stated this morning that what he considered the most important discovery was the finding of the relics of the Greely expedition. These were found in Cape Sabir, but he said he would not describe them for the present.

The party Lieutenant Peary said, had succeeded in establishing headquarters and a base of supplies in Greenland preparatory to his new expedition next spring.

The loftiest inhabited place in the world is the Buddhist monastery of Balmo, in Tibet. It is 17,000 feet above the sea.

WEEKLY MARKET LETTER.

Downing, Hopkins & Company's Review of Trade.

A low range of values for wheat has been established during the week as the result of diminished speculation, increased receipts and accumulating stocks, the market closing weak under these conditions, with still lower tendency. Clearances continue large. Export sales have been only moderate, and there seems to be a pause in the European demand. The diminished volume of speculation is probably the weakest feature in the market at present, as the trade generally have accepted as a fact that Europe wants all the surplus food products that we have to spare.

The presence of a so-called "bull clique" has been largely responsible for the decreased trade and much to check the advance. The increasing stocks would not prove sufficient to depress values, but in conjunction with the lessened export demand and absence of speculation the current of the market has been turned and unduly conditions are changed a lower range of values is to be expected temporarily.

Corn values have suffered a severe decline, due in part to local speculative conditions. The salient points of weakness in the market, however, have been the large receipts, enormous stocks and the insufficiency of the cash demand. The forward movement is now falling off. Farmers have practically ceased selling. The cash demand is also improving and a stronger market is probable next week. Crop prospects are unfavorable. Serious damage has occurred since the last government report was compiled, and the next report will show a very large decrease in the yield. Present values are below the average for years past and invite speculative buying. The shortage in the world's wheat crop would in itself warrant better values for corn, but in connection with the serious shortage in the potato crop, estimated at 1,000,000 bushels, it is apparent that corn will be in greater export demand than ever before. We regard present weakness as but temporary, and certain to be followed by much higher values.

There is more catarrh in this section of the country than all other diseases put together, and until the last few years was supposed to be incurable. It is now cured by a new discovery, called Catarrh Remedy, which is sold by Dr. J. C. Cheney & Co., Toledo, O. It is a simple, safe, and effective remedy, and is sold by all druggists.

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THAT TERRIBLE SOURCE.

Material disease is invariably supplemented by disturbance of the liver, the bowels, the stomach and the nerves.

The average taxation in Egypt is about \$4.50 a head.

AN OPEN LETTER TO MOTHERS.

We are asserting in the courts our right to the exclusive use of the word "CATARRH" and "PITCHER'S CATARRH," as our Trade Mark. I, Dr. Samuel Pitcher, of Hingham, Massachusetts, was the originator of "PITCHER'S CATARRH," the same that has borne and does now bear the fac-simile signature of CHAS. H. PITCHER on every wrapper.

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