

TITLE TO OUR LANDS IS VESTED IN THE STATE

(Continued from last week.)

The townships are later divided into sections of one mile square, or 640 acres each, permanent corners established and marked by the surveyor by marks which are fully described in his report to the government. The quarter section or half-mile corners are also established and marked around the outside of the sections, for its later subdivision into smaller tracts, though a government surveyor never establishes the center or inside quarter section corner. This subdivision of townships into sections is done under a separate contract from that of locating the townships and usually by different surveyors. The subdivider begins at the southeast corner of the township and works north and west, always retracing his work to prove it; and seldom does his survey come out exactly with that of the locator of the township, so we seldom find the north or west rows of sections exactly a mile square, as of necessity all discrepancies in the surveys are thrown into the north and west tiers of sections.

The subdivider must not move or amper with the township corner, no matter how erroneously it may be located. In the survey of level land, these discrepancies are usually very slight, but in the survey of steep mountains and especially where heavily timbered, the discrepancies amount to a considerable distance. For example, Section 1 in Township 2, 2 West, on its east line is 107.56 chains north and south, whereas it should be only 80 chains, while Section 31 in Township 23, 1 West, is 13.11 chains or almost three-quarters of a mile too long east and west. The sections in a township are numbered consecutively from 1 to 36, beginning at the southeast corner, and ending at the northwest corner, numbering west from 6, dropping down one row and numbering eastward, 7 to 12 and so on, back and forth until 36 is reached at the southeast corner of the township.

The first attempts at local government in Oregon commenced in 1841, which resulted in the establishment of an executive and legislative committee in 1843. The executive committee consisted of three members, the legislative committee, of a larger number, chosen by districts. The first article adopted or enacted by the legislative committee and known as the Oregon Land Law reads as follows:

Any person now holding or wishing to establish a claim in this territory shall designate the extent of his claim by natural boundaries or by marks at the corners and on the lines of such claims and have the same and boundaries of said claim recorded in the office of the territorial recorder. The provisional government of the territory, by an act of the legislative committee at its session at Oregon, the first capital of the territory, July 5, 1845, submitted to the people to be voted upon by them July 5, 1845, among other things, this section with some additional requirements as to the identification of the claims; the first use of referendum in Oregon. The measure was sustained by a majority of

293. But the act of congress, approved August 14, 1848, organizing the Oregon Territory, which included Washington, Idaho and part of Montana, and the first national recognition of it (Section 14), reads: "But all laws heretofore passed in said territory making grants of land or otherwise affecting or incumbering title to lands shall be and are hereby declared to be null and void." Thus, until the act of congress of September 27, 1850, there was no provision for acquiring title or any vested estate in lands in Oregon; although there was quite a considerable population in the territory and many claims had been made to lands by parties who were living upon them and, to a certain degree, cultivating them.

Section 29 of the same act reads: "When the lands in said territory shall be surveyed under the direction of the government of the United States preparatory to bringing the same into the market, Sections 16 and 36 in each township in the territory shall be and the same hereby is reserved for the purpose of being applied to schools in said territory and in the states and territories to be erected out of the same."

This is the earliest congressional act pertaining specially to Oregon lands, and its intent and purport was carried into effect by the act of February 14, 1859, admitting the State of Oregon to the Union, Section 4 thereof providing, in part: "That Sections 16 and 36 in every township of public lands in said state, and where either of said sections, or any part thereof, has been sold or otherwise disposed of, other lands equivalent thereto and as contiguous as may be, shall be granted to said state for the use of schools; also, that 72 sections of land shall be set apart and reserved for the use and support of a state university, to be selected by the governor of said state, subject to the approval of the Commissioner of the General Land Office, and to be appropriated and applied in such manner as the legislature of said state may prescribe for the purpose aforesaid, but for no other purpose."

But prior to this, by the act of September 27, 1850, of which I will speak more at length a little later, provided that there be and hereby is granted to the territory of Oregon the quantity of two townships of land in said territory west of the Cascade Mountains, and to be selected in legal subdivisions after the same has been surveyed—one to be located north and the other south of the Columbia river, to aid in the establishment of a university in the territory of Oregon, in such manner as the legislature may direct.

The act of July 17, 1854, organizing Washington Territory, provides: "In lieu of the two townships of land granted to the territory of Oregon by the tenth section of the act of September 27, 1850, for universities, there shall be to each of the territories of Washington and Oregon two townships of land of 36 sections each, to be selected, etc."

By this act of 1859, admitting the state to the Union, there was also granted 10 sections, to be selected, for the purpose of completing the state public buildings, as well as some other grants.

Thus, by this act and others of which it is confirmatory, the state acquired title to over 5,300 square miles or nearly three and one-half million acres.

Until a comparatively late date, these lands were sold at the uniform price of \$1.25 per acre, regardless of their values; but after all the good lands had been disposed of at that price, a law was enacted that the remainder of the state lands be appraised, and any now purchased from the state are purchased at the appraised value. Had this method been adopted 50 years ago, our permanent school fund would have been several times what it now is.

By a general law of the United States, all swamp, overflow and tide lands also belong to the state in which they are situated.

Since the expiration of the donation act, December 1, 1855, all of the usual provisions for acquiring public lands in the United States have been applied to the public lands of Oregon; as the act of April 24, 1820, for the sale of lands to actual settlers; the preemption act of September 4, 1841, providing for an actual residence upon land, not exceeding 160 acres, for six months and upon satisfactory proof of such residence and the payment of the minimum government price, \$2.50 per acre, within the limits of a railroad grant, or \$1.25 outside such limits, patent issued to the settler; the Homestead Act, permitting any man 21 years of age or the head of a family to reside on a tract not exceeding 160 acres for five years, when if good faith is shown and improvements sufficient to show actual intent to make a home of the land have been made, the land is patented to the homesteader, upon the payment of only the land office fees, which amount to only a few cents per acre. Timber claim act, under which the most of our best timber land has been acquired at \$2.50 per acre. This act has recently been modified

so that one buying timber land from the government must pay the appraised value, based upon the amount of timber, its accessibility, etc.; the timber culture act, applicable only to the timberless sections of the country, whereby by planting and cultivating a certain amount of land to forest trees a larger tract is patented to the individual. Much land, too, has been granted as a reward for military service in the several wars in which our country has been engaged and especially in the civil war and some of the Indian wars. Then we have the large military road and railroad grants, to aid in the building of military wagon roads and railroads. Affected considerable quantities of lands in our own country were the Oregon Central Military Wagon Road company grant of July 2, 1864, which gave to this company each alternate section of land, not previously entered or disposed of, in a strip six miles wide from Eugene eastward across the Cascades, following up the middle fork of the Willamette river; while many thousands of acres were included in this grant, it was not in fact of great value to the company, as it included only undisturbed lands and nearly all the land which was worth having for the first 50 miles from Eugene had been previously entered or disposed of; and beyond that, the lands were of little value, except for the timber and I understand that but comparatively little of this belt is through first-class timber.

Then there was the larger grant of July 25, 1866, to aid in the building of a railroad from Portland to a point in California on the old Central Pacific Railroad; all odd numbered sections in a strip 40 miles wide along the line of the railroad, which had not been previously entered or disposed of, and the right to select other lands in lieu of any within such strip which had been entered or disposed of, in odd-numbered sections in strips 10 miles wide on either side of the original 40-mile strip; which practically meant all odd-numbered sections not previously disposed of in a strip 60 miles wide along the line of the Oregon and California railroad, now leased and controlled by the Southern Pacific Company. Much litigation has grown out of this grant from the fact that on April 10, 1869, nearly three years after the original grant, an act was passed by congress extending the time for building the railroad, recognizing the grant, but with a rider: "And provided further the lands granted by the act aforesaid shall be sold to actual settlers only, in quantities not greater than one-quarter section to one purchaser, and for a price not exceeding \$2.50 per acre."

This act of September 27, 1850, when there were practically no surveyed lands in Oregon, provided that every white citizen or person who had declared his intention to become a citizen, which included half-breed Indians and both males and females over the age of 18 years then in the territory of Oregon or who should become a resident thereof on or before the first day of December, 1850, upon residing thereon for four years and otherwise complying with the terms of the act, should be entitled to a grant of 320 acres of land. A man and wife might combine their rights, provided they were married on or before December 1, 1850, and take their full amount of 640 acres in one claim, one-half thereof, however, to be patented to the husband and one-half thereof to the wife. In fact, a man and his wife must take in one tract, as the law required actual residence upon the land during the four years and the law never recognizes a separate residence of a wife from that of her husband; but the residence of the two upon any part of the 640 acres was sufficient. For the purpose of patenting, the claims might be divided either way, into north and south or east and west halves. The surveyor general, an officer created by this act, had authority to make the division and to determine which half each was to receive. He is said to have been quite partial to ladies, and were you to examine the facts you would find that the wife's half of most claims embraced either the most valuable portion of the land or that part upon which the buildings were situated and the best improvements made.

Thus, by this act of congress, were recognized and granted to the early settlers the rights attempted to be assumed by them under the temporary organization of the territory. The territorial government had assumed the ownership of the territory and provided for the granting of lands to individuals. Congress, by its first act recognizing the territory and affecting a permanent organization thereof, as stated above, so to speak, cleared the boards by providing that all laws heretofore passed in said territory making grants or otherwise affecting title to lands shall be and are hereby declared null and void; but to show that congress was not as heartless as it seemed, just thirteen months and seven days later it actually granted to the settlers just what they had assumed for them-

selves or attempted to assume.

This act of 1850 further provided that all white male citizens over 21 years old, coming to Oregon after December 1, 1850, should be entitled to the provisions thereof to the extent of one-half the amount of land granted to the 1850 and prior settlers; that is, a single man was entitled to 160 acres and a married man and his wife to 320 acres, one-half to be patented to each; but a single woman coming to Oregon after December 1, 1850, was not entitled to the benefits of the act unless she was able to beguile some man into matrimony.

This provision of the law was conducive to early marriages and many a bride of 14, or more or less youthful, settled upon a portion of the virgin soil of the Willamette valley and other favored portions of this great Northwest territory. Neither were the men always particular as to the color of the bride. A wife was a wife in those days, regardless of her age, color, race or previous condition of existence.

(To be continued.)

If you want to keep posted take The Spokesman—\$1.50 a year.

Correspondence

POWELL BUTTE

Last Thursday morning an eight-pound girl was born to the wife of Will Sippy.

Mr. and Mrs. Roy Shurtum and Miss Gladys Flannigan of Pendleton, who have been visiting Mr. Shurtum's sister, Mrs. E. N. Hall, left for Portland Thursday morning. They are making the trip by auto.

Rev. H. O. Perry preached one of his usual interesting sermons at the hall last Thursday evening. This is Rev. Perry's last trip into this section before quarterly conference.

Edwin Abbott, who has been elected teacher in the Twin Butte district, was out Sunday looking over school matters and also for a house to rent. Quite a number of Powell Butte people attended the Prineville Chautauqua last week and all report it a grand success.

Mrs. Lou Reed and daughter Helen, Violet Tinner, Susan, Edmund and Hughie Wood visited at the Tuck home Monday, Tuesday and Wednesday of last week.

Several large bands of sheep have passed through this section this week on their way to the mountains, most of the bands coming from the Antelope country.

Miss Ruby Davis is working for Mrs. Chapman for a short time.

During the program the 4th, John Perry became quite ill and had to be taken home.

Clark Morse spent a couple of days in Prineville last week attending to business matters.

Haying is the order of the day since the rain is over. Some of the men have as high as six mowers in the field cutting the first crop so as to give the second one a chance.

Miss Fay Bussett has been visiting friends and relatives in Bend and Redmond the past week.

Mrs. Reeves Wilcoxson and Mrs. Chas. Oreweller came down from Bend Thursday and spent the day. Mrs. Wilcoxson was at home and Mrs. Oreweller visited with her daughter, Mrs. Joe Shearer.

Misses Josephine Manceau and Lina Moore and Messrs. Claude Moore and J. A. Riggs attended Chautauqua and the dance in Prineville Saturday evening.

Mrs. Hollander, who has been visiting Mr. and Mrs. E. L. Iverson, returned to her home in Spokane today.

Mr. and Mrs. Henry Young of Redmond spent Sunday with Mrs. Young's sister and family, Mrs. E. A. Bussett.

Rev. and Mrs. Allen were dinner guests of Mr. and Mrs. John Tuck Sunday.

Allen Wilcoxson commenced work on the state road above Bend last Wednesday.

Miss Minnie Allen of Sioux City, arrived last Saturday for a visit with her brother and sister, Herman and Mabel Allen.

Jess Tuck made a business trip to Crooked river Monday.

Mrs. E. A. Bussett and Mrs. Mary Brown went to Prineville Thursday on business.

Last Sunday afternoon the little Butterfield girl, while riding horseback, had the misfortune to have the saddle turn with her, throwing her into the ditch. She was neither hurt nor scared, but didn't much like her ducking.

Mrs. Falco and daughter, Marguerite, and Mrs. Mathiot and baby are visiting with their parents, Mr. and Mrs. Manceau.

The Boys and Girls' Industrial Club held a meeting Monday afternoon.

Miss Ada Morse is clerking at the Lynch & Roberts store at Redmond for a couple of weeks.

Mr. and Mrs. E. L. Iverson, Mrs. Hollander and Mrs. E. N. Hall visited Thursday afternoon at Homestead Acres.

Miss Gladys Bayn returned home Sunday, after spending several days in Prineville.

Mrs. Guy Sears spent several days last week with Mr. Sears' mother in Prineville.

The Powell Butte Sorosis will meet June 19, with Miss Mabel Allen.

TETHEROW BUTTE

Mrs. R. L. Stevens is on the sick list.

George Ehlers and C. L. Mead returned Thursday from Spokane, where they went to take a chance in the Colville land drawing. Mr. Mead says things look a whole lot better in Central Oregon than they did before he made the trip.

V. Hanks left the first of the week for Spokane, where he will take a chance on the Colville Indian reservation land and then will work there

for a few months.

Ray Archer and Jas. Hutton were looking over crops on the Popular ranch Sunday afternoon.

Mrs. E. E. Butcher ate chicken dinner with her daughter, Mrs. Ralph Sturdivan Thursday.

Fred Hoover visited A. B. Oakes Sunday afternoon.

Mrs. C. D. Sturdivan and two children returned Sunday night from Sisters, where she went to spend the Fourth with her parents. Glenn will spend the summer with his grandparents.

Quite a number have begun haying and the crop promises to be a good one.

Mrs. Fay Dickey of Colfax, Wash., was in this section Saturday looking after her property interests. She was accompanied by her sister, Mrs. Chas. Barnes of Culver, once a resident here.

Hila Morse came down from Bend to spend a few days with her aunt and cousins at Rural Dell ranch. J. J. Buckley and family spent Sunday afternoon with Mr. and Mrs. E. M. Eby.

W. Hudson was down from Bend Sunday and spent the day at J. W. Livingston's.

Potatoes as a general thing in this section are rather poor.

The grain crop will be a bumper one. There is a large acreage and it is pretty well headed out, with the exception of a few pieces which were put in late.

Mrs. Frances Sturdivan spent Tuesday with Mrs. J. F. Van Allen.

Miss Nora Livingston is home to spend her vacation with her parents, after a successful term of school at Silverton, Oregon. Miss Livingston

was formerly a teacher in the Redmond school.

Coyotes are raising havoc with the chickens and turkeys in this locality. Mrs. M. A. King and children and Mrs. J. Perkins visited Mrs. Clara Sturdivan Tuesday afternoon.

LOWER BRIDGE

If you found an auto tire, see the classified columns.

The Misses Hutchins returned to Redmond Wednesday, after a short visit at the home of Mr. Chapman.

Miss Pearl Campbell and Ora Holloway spent the Fourth at Alfalfa with Mr. Holloway's people. They returned home Thursday.

Mrs. E. Mitchell accompanied Mrs. Harrington and C. W. Clapp to Prineville Monday.

The P. T. Club met with Mrs. Geo. Scott Friday afternoon.

Mrs. Harrington gave a party on Thursday for her son, Denzil, in honor of his fourteenth birthday. The young people had a delightful afternoon in playing games.

The grange met Friday evening. Mr. Detrick and Mr. Mackey of Terbonne spoke in the interests of the farmers' union.

The celebration held at the bridge the Fourth was a success, more than 80 being present. After a sumptuous dinner, the afternoon was given to races and a ball game between the single and married men, the single men winning. Mr. Erickson won the prize in the pie-eating contest. Mr. Lantes won the race for men over 50. Mrs. Kozman won in the race for women weighing over 150 lbs. Mrs. A. J. Fuller carried off the prize for the nail driving contest for ladies.

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