

SETTLERS WIN THEIR CASE

JUDGE BELLINGER'S DECISION IN RAILROAD SUIT.

Title to Lands Acquired From Oregon & California Road Secured to West Side Settlers.

Judge Bellinger, in the United States Circuit Court, yesterday rendered a decision in the important case of the United States vs. the Oregon & California Railroad Company. The suit involves the title of some 30 settlers to claims which, with the improvements thereon, aggregate in value about \$1,000,000.

These are suits to cancel patents issued by the United States to the defendant company, conveying the title to certain odd sections of land within the indemnity limits of the land grants made by Congress to the railroad company.

It can make no difference in any case that the odd sections within the indemnity limits of the land grants made by Congress to the railroad company are not more than is required to make up the deficiency in the primary grant.

There is no room to argue that the Secretary is not required by the circumstances to select the lands within the indemnity limits of the land grants made by Congress to the railroad company.

The act of May 4, 1850, after making grant of lands within the primary limits of the road, provided that the quantity of 10 full sections per mile cannot be found on each side of said road, within the said limits of 20 miles, other lands designated as aforesaid shall be selected under the direction of the Secretary of the Interior on either side of any part of said road nearest to and not more than 25 miles from the track of said road, to make up such deficiency.

The suit is brought by the United States for the benefit of some 30 pre-emption and homestead claimants who own the lands in question after the defendant's map of survey or definite location of its railroad was filed with and accepted by the Secretary of the Interior.

There is a well established distinction between "granted lands" and "indemnity lands" in the construction of land grants in aid of railroads, and the principle is firmly established that the lands within the indemnity class does not vest in the railroad company for the benefit of which they are contingently granted, but in the fullest legal sense remain in the United States, until they are actually selected and set apart under the direction of the Secretary of the Interior specifically for indemnity purposes.

The defendant's contention is that the title remains in the United States until it is disposed of at its pleasure. Grinnell vs. R. Co., 103 U. S. 73; St. Paul, etc., Railroad vs. Winona & St. Peter Railroad, 112 U. S. 72; Northern Pacific Railroad vs. Atchison Railroad, 112 U. S. 414; Cedar Rapids & Missouri River Railroad vs. Herring, 116 U. S. 27; Barney vs. Winona & St. Peter Railroad, 117 U. S. 8; St. Louis City, etc., Railway, 117 U. S. 462; United States vs. Missouri, Kansas & Texas Railway Company, 141 U. S. 374.

STOP IN AT UNION PACIFIC TICKET OFFICE

No. 135 Third Street. And see the wonderful moving pictures, and gaze at the grand scenery on the line of, and the flight of "The Overland Limited" over the Union Pacific railroad, which will be shown free.

MUTUSCOPE. See the handsome moving pictures now on exhibition at Union Pacific ticket office, 135 Third Street.

VICTORIA'S NEW BISHOP

FATHER ORTH'S SERVICES FOR 25 YEARS IN OREGON.

Building Up of St. Lawrence Parish His Chief Work—Fine Educator and Priest.

Father Bertrand Orth's appointment as Bishop of Vancouver, B. C., which was reported the day previous, was confirmed yesterday by receipt of the apostolic brief. The reverend gentleman's retiring disposition caused the news to find public ear rather slowly.

Father Orth is a graduate of the Louvain University, in Belgium, and was ordained in the year 1872. In the Fall of the same year he came to Oregon, his companion reading circles such like the Chautauques.

Through his parish and even much beyond in the past he has been an excellent speaker, and combines oratory with learning, as he is very studious. To sum up, Father Orth is a thorough churchman.

He was born in the village of St. Pierre, in the diocese of Montreal, Canada, on the 10th inst. of the month of July, 1850. He was educated in the diocese of Montreal, and received his degree of Bachelor of Arts from the University of Montreal in 1872.

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THOMAS KAY IS DEAD

WELL-KNOWN WOOLEN MANUFACTURER OF SALEM.

Died Last Night at St. Vincent's Hospital, After an Illness of Several Months.

Thomas Kay, proprietor of the Salem woolen mills, died at St. Vincent's Hospital, at 10 o'clock last night. He had been in failing health for a long time, and about two weeks ago was brought from his home in Salem to St. Vincent's Hospital. He continued to fail, however, till the end came.

Brief Sketch of His Life. SALEM, April 22.—Thomas Kay was born in Applebridge, Yorkshire, England, in 1827. He was descended from a long line of woolen manufacturers, and from his youth he followed the regular industry. He came to America in 1857, and after working one year at Casnovia, N. Y., he returned to England to further perfect himself in his trade.

He then spent some time in travel abroad, returning to Salem in 1859. Receiving much encouragement from public spirited citizens, he built and operated his own woolen mills in Portland, where he remained until the mills burned in 1859. He worked successively in the mills at The Dalles and Ashland, acting as superintendent at the latter place for four years.

In 1859 he took charge of the weaving department of the Willamette woolen mills at Salem, and continued in this position until 1872, when he leased the new mill which had been built at Brownsville. In 1875 he formed a partnership, and bought the mill, which the firm operated until 1888, when Mr. Kay sold out to the present associates.

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Much of the prosperity of the people of this city is due to the energy and perseverance of Mr. Kay in maintaining and operating his woolen mills. During the hard times he kept his plants in operation, even at a loss, in order to give employment to the operatives, who were dependent upon the industry for a living.

He was a member of the Baptist church and of the Masonic and Odd Fellows orders. In 1857, Mr. Kay married Miss Ann Singby, of Leeds, England. Ten children were born to them, five of whom are still living. They are: Mrs. C. P. Bishop, of Salem; Mrs. M. J. Kay, of Salem; Mrs. O. P. Coshov, Jr., of Roseburg; Misses Lenore and Bertha Kay, of Salem.

COLVILLE RESERVATION. Instructions From Commissioner Hermann About Sale of Lands.

In the matter of the opening of the Colville Indian reservation, next October, Binder Hermann, Commissioner of the Land Office, has sent the following instructions to the officials of the land offices at Spokane and Waterville:

"With regard to the lands described in the proclamation, you will observe that the acts referred to provide that, subject to the reservations and allotments to Indians of the Colville reservation, all the lands shall be disposed under the general laws applicable to the disposition of public lands in the State of Washington.

"It is further provided by section 3 of the act of July 1, 1892, supra: 'That the lands within the reservation, as defined in the proclamation, shall be sold under the date of his original entry and before receiving a final certificate for the land covered by his entry, pay to the United States, in full, the sum of five dollars for each acre, one-third of which must be paid within two years after the date of the original entry; but the rights of entry shall be reserved to the United States, as defined and described in sections 2304 and 2305 of the revised statutes of the United States, shall not be abridged, except as to the sum to be paid as aforesaid.'

"All applicants to enter these lands must possess the qualifications required by the law under which he desires to acquire the land. Within two years after the time of making his entry he must pay the sum of 50 cents per acre, and within five years from the date of his entry, and before receiving a final certificate, he must pay an additional sum of \$1 per acre.

"As said lands are restored to entry under the general laws, homestead entries may commute their entries under section 2281 R. S. for the lands so defined at the rate of \$1 50 per acre, but no final commissions will be collected when commutation proof is submitted. The commutation will be made at the rate of \$1 50 per acre, but no final commissions will be collected when commutation proof is submitted. The commutation will be made at the rate of \$1 50 per acre, but no final commissions will be collected when commutation proof is submitted.

"Upon receipt of the first payment of 50 cents per acre for homestead claimants, the receiver will issue a cash receipt for the money, noting thereon 'first payment Colville Indian reservation homestead,' and when final proof is submitted the receiver will issue a regular final certificate and receipt should issue, as well as a separate cash receipt for the final payment of \$1 per acre.

"Sections and in each township shall be subject to such right of the State of Washington thereto as may be ascertained and determined by the Land Department in the administration of the grant of lands in place to that state for the support of the common schools.

"The notices required by circular of instruction of October 21, 1885 (L. D. 202), as to the filing of the plat of survey, shall be subject to such right of the State of Washington thereto as may be ascertained and determined by the Land Department in the administration of the grant of lands in place to that state for the support of the common schools.

"You will open a separate series of numbers for each class of entries, beginning with number one, reporting them in separate and special abstracts and report and account for the same in your regular monthly and quarterly Colville Indian reservation accounts.

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REV. B. ORTH, NEW BISHOP OF VANCOUVER.

DAILY CITY STATISTICS.

Real Estate Transfers.

Clarence W. Coulter to George W. Joseph, lands Latourelle Falls, February 18, 1898, \$1,000. 1

F. E. Hoffman to E. J. Steed, lands Real Estate Company, lots 1 to 18, inclusive, block 1; lots 1 to 12, inclusive, block 2; lots 1 to 13, inclusive, block 3; lots 1 to 15, inclusive, block 4; lots 1 to 16, inclusive, block 5; lots 1 to 17, inclusive, block 6; lots 1 to 18, inclusive, block 7; lots 1 to 19, inclusive, block 8; lots 1 to 20, inclusive, block 9; lots 1 to 21, inclusive, block 10; lots 1 to 22, inclusive, block 11; lots 1 to 23, inclusive, block 12; lots 1 to 24, inclusive, block 13; lots 1 to 25, inclusive, block 14; lots 1 to 26, inclusive, block 15; lots 1 to 27, inclusive, block 16; lots 1 to 28, inclusive, block 17; lots 1 to 29, inclusive, block 18; lots 1 to 30, inclusive, block 19; lots 1 to 31, inclusive, block 20; lots 1 to 32, inclusive, block 21; lots 1 to 33, inclusive, block 22; lots 1 to 34, inclusive, block 23; lots 1 to 35, inclusive, block 24; lots 1 to 36, inclusive, block 25; lots 1 to 37, inclusive, block 26; lots 1 to 38, inclusive, block 27; lots 1 to 39, inclusive, block 28; 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