

BIG LAND FRAUD FORTY YEARS AGO

Government Swindled of Vast Tracts Through Wagon Land Grant.

RECENT SALE A REMINDER

Suits Instituted by Government to Recover in 1889 Fall Because Land Is Held by Innocent Purchasers.

Sale by the Booth-Kelly Company the other day of the lands acquired through the old Oregon Central Military Road Company's grant recalled the fact that many years ago these tracts became famous in connection with other wagon road grants in Oregon through suits instituted in the Federal courts by the then United States Attorney to cancel patents on the ground of fraud.

Incidentally it brought to light the circumstance that in the earlier history of this state land frauds were practiced upon such an extensive scale as to make the lotteries of the public domain of the present time appear like petty larcenies in comparison, if the bills of complaint filed in the cases are any criterion.

On August 30, 1889, bills of complaint were filed in the United States Circuit Court by United States District Attorney L. L. McArthur, asking for the forfeiture of various wagon road grants in this state, including the Willamette Valley & Cascade Mountain Wagon Road, Company, the Willamette Valley & Coast Railway Company, the Oregon Pacific Railway Company, the Oregon & Coast Trust Company, the Dalles Military Wagon Road Company, the Eastern Oregon Land Company, the Oregon Central Military Road Company, the Oregon & Columbia River Land Company, besides 68 individuals. These bills were signed by Acting Attorney-General O. W. Chapman, United States Attorney McArthur and Special Assistant W. C. Johnson, who was aiding McArthur under direction of the Department of Justice.

While differing somewhat in details, the complaints resembled in their general features so far as the corporations were concerned, and the one against the Oregon Central and the Columbia & Oregon Land Company, involving title to the lands recently transferred by the Booth-Kelly Company to a syndicate of Eastern and California capitalists may be taken as a fair indication of the whole. It recited that the Oregon Central Military Wagon Road Company, which after various transfers its interests to the California & Oregon Land Company, was originally composed of B. J. Pengra, C. B. Pengra, G. W. Colby, John Boggs, N. D. Edmond, W. H. Farley, R. F. Farley, Edgar Mills, B. B. Pond, Nicholas Luning, W. C. Belcher, F. B. Simpson, J. W. Peck, Isaac Allen, R. F. Baker, M. T. Johnson, H. H. Holbrook, Isaac Johnson and A. D. Reed, and they were likewise made defendants in the suit.

History of Wagon Road Grant.
The history of the wagon road grant as told in the complaint is filled with interest, Congress having passed an act on July 2, 1846, granting to the State of Oregon to aid in the construction of a wagon road from Eugene, by way of the middle fork of the Willamette River and the most feasible pass in the Cascade Range mountains, near Diamond Peak, to the eastern boundary of the state, the alternate sections of land, designated by odd numbers, to the extent of three sections on each side of said road. The act provided that the lands granted should be applied exclusively to the construction of the road, and to no other purpose, and that should be disposed of only as fast as the work upon the road progressed; that lands lying within the limit fixed by said act, and thereafter reserved or appropriated, should be reserved from the operation of the act, except so far as it might be necessary to locate the road over the same, in which case a right of way should be granted, and the lands so granted to the State of Oregon should be disposed of by the Legislature thereof for the uses and purposes therein set forth, and for no other purpose, in the following manner:

Upon the completion of ten miles of the road, a quantity of land not exceeding 30 sections for said road, to be sold by the State of Oregon, to the completed portion of said road, and when the Governor of the State of Oregon should certify to the Secretary of the Interior, C. G. Wood, coterminous miles of the road were completed, then another quantity of land by this act granted, not to exceed 30 sections, might be sold in the same way as before. From time to time, as the road was completed, the lands were to be disposed of in this manner, and if the road should not be completed within five years from the date of the passage of the act, no further lands should be sold, and the land remaining unsold should revert to the United States.

Governor Gibbs Deceived.

It was averred further that on July 27, 1846, the Oregon Central officials falsely represented to Governor Addison C. Gibbs that 60 miles of the road had been constructed eastward from Eugene, whereupon the state's chief executive certified that he had "passed over and personally examined the first 50 miles of the Oregon Central Military Road Company, beginning at Eugene City and extending eastward and toward the eastern boundary of the State of Oregon, and that the road had been completed for that distance in accordance with the requirements of the act of Congress and the laws of Oregon."

The complaint declared that Governor Gibbs was deceived, a county road, in which the company had no interest, being pointed out to him as the military road owned and constructed by the company, and that his certificate had been fraudulently obtained.

November 23, 1847, it was alleged that Governor George L. Woods was imposed upon in the same manner, causing him to certify that 42 1/2 miles had been completed; also on January 12, 1848, Woods certified to the entire completion of the road. The complaint set up that the Governor never made any examination of the road whatsoever, and well knew that it had not been constructed.

Office to such corporation or corporations upon the payment of the necessary expense therefor, provided, that this shall not be construed to revive any land grant already expired, nor to create any new rights of any kind, except to provide for issuing patents for lands to which the state is already entitled.

Lands Handed Over.

It was further set forth in the complaint that the Secretary of the Interior Department and Commissioner of the General Land Office, having been deceived, misled and imposed upon by the false and fraudulent certificates heretofore set forth, executed and delivered to the State of Oregon certified lists for the following quantities of land: November 13, 1847, 29,133.22 acres; April 21, 1851, 187,533.37 and 28,413.56 acres; December 4, 1871, 113,904.91 and 864.14 acres, and April 2, 1873, 23,453.48 and 463.94 acres, a total of 361,328.93 acres. The case wherein it was sought to cancel the patents to the lands of the Oregon Central Military Road Company's grant was tried before United States Circuit Judge Matthew P. Deady, who, on May 25, 1891, decided against the Government. December 23, 1891, an appeal was taken from his decision to the Circuit Court of Appeals, which, on March 19, 1892, affirmed the ruling of the lower court, and on March 8, 1893, the Supreme Court of the United States sustained the decision of the Circuit Court of Appeals. The ruling in favor of the defendants by all the legal tribunals was based upon the theory that the tracts enumerated had not only been sold to innocent purchasers, but that the Government itself had been guilty of laches in the matter of commencing the actions, although it was not denied that had not the statute of limitations run against the proceedings in a way, or at least to the extent indicated, the suits to cancel the patents could have been maintained successfully.

Graphophone vs. Fiddle Farmer Gets Decision

This Tells How Van C. Dunning Outwitted the Neighbors and Scored and Silenced Ambitious Imitators of Ole Bull.

VAN C. DUNNING, who lives on the corner of East Sixth and East Alder streets, in common with the neighbors, had been inflicted for several weeks with the night hours with the rasping tones of a fiddle in the hands of a man who lived in a tent across the street. In the early part of the evenings this man would get out his fiddle and practice until midnight. Nobody could sleep. The music sounded like the wailing of a soul deep down in perdition. It came out on the night air with awful accents. It kept the babies awake. The women became hysterical. Something must be done. Something had to be done.

Van was the man of the hour. He jumped into the breach. He made the man with the fiddle sick. Van bought an "olephantical, ornithological, musicalian, Edisonian" automatic music machine and poked its elongated nose out the window of his home in the direction of the tent. Monday night when the fiddle started Van started his machine. As the man with the fiddle put on more steam Van moved his clutch several notches higher. The fiddle completely drowning out the tones of the fiddle. The tent retired from the contest.

He opened out again Tuesday night. Van opened out also, and the fiddle had to retire. And so it went on until Friday night, when the man with the fiddle acknowledged he was beaten and came over to aid in the construction of a gulch in Van's gulch if Van would do the same. It was agreed, and both fiddle and "machine" were dumped into the gulch Friday night.

Since quiet has been restored at the intersection of East Alder and Sixth streets Van has been receiving delegations from the lodges meeting in the near-by hall, from mothers whose babies were distracted, hysterical women and others too numerous to mention.

Van will not be a candidate for Mayor, and does not care to receive any more delegations. The consciousness of having done a good deed is sufficient reward for him.

Mrs. Widel Sues for Divorce.

Suit for a divorce because of cruel treatment and infidelity was commenced in the State Circuit Court yesterday by Mabel C. Widel against Albert T. Widel. Jessie Borlan is named as co-respondent. The litigants were married at Beaverton March 25, 1897. Mrs. Widel asks for the custody of two minor children.



DECIDES TO REMAIN IN PORTLAND AND RE-ENTER BUSINESS
George E. Jabour is determined to remain in Portland, and Monday will open up an Oriental bazaar at the corner of Seventh and Washington streets. Mr. Jabour quit the show business when the Lewis and Clark Exposition closed, and although he has had favorable opportunities to return to it he stuck to his intention, to remain in this city, where he has numerous acquaintances. The Oriental Bazaar will be conducted by a firm known as George E. Jabour & Co. Mr. Jabour proposes to give Portland the finest emporium of its kind on the Pacific Coast. The stock will consist of rugs, tapestries, drapes, lace, antiques, etc. Much of the goods was secured through the influence of the Turkish government from the factories at Constantinople. Mr. Jabour was formerly Consular Agent for Turkey.

HAMMOND ORDERS THE WORK RUSHED

Grading to Be Commenced by September 1 on Seaside-Tillamook Line.

WILL BUILD ALONG COAST

Engineer Taylor, Who Has Been Placed in Charge of the Work, Says Water Grade to Tillamook Is Feasible.

Instead of waiting the coming of Spring to start work on the Tillamook extension of the Astoria & Columbia River Railroad, as the plan of A. B. Hammond was when he was in Portland a few weeks ago, work will be commenced on grading for the line within the next few weeks. Preliminary work is being rushed, and by September 1 construction gangs will probably be busy leveling the ground for the laying of new track.

J. W. E. Taylor has been made the engineer in charge of the extension and is now in Seaside, where he is effecting the preliminaries to speedy construction. He will join a party this week in a reconnoitering trip over the ground from Seaside to Tillamook, a distance of about 30 miles as the crow flies. Mr. Taylor was formerly the engineer in charge of the H. E. Huntington system of electric railroads in Southern California. He came to Portland with the group of Los Angeles promoters who organized the United Railways Company several months ago, and started actual construction of the city lines on the Macadam road. He is known as a thoroughly competent railroad builder and has the confidence of railroad men on this coast.

Engineer Taylor has been on the ground to be traversed by the Hammond extension already, and gives his opinion that he can build a road to Tillamook down the coast on practically a water grade. This work, he says, will prove expensive, but he can secure the desired gradients without serious difficulty.

Since the visit of Mr. Hammond in Portland and his announcement that the Astoria & Columbia River Railroad will be extended to the Nixam and Tillamook sections, officials of his lines have been busy arranging for an early commencement of actual work. It has been found that a large part of the work prior to the laying of the rails on the extension can be done before the heavy rains of the winter set in. It is hoped to have the Astoria & Columbia River Railroad line into Tillamook early next year.

Mr. Hammond holds the record for being the man who has talked less about what he intended doing in railroad building than any other who is interested in the situation in this state. His promises have never outrun performance, on the contrary, as in the present instance, his method is rather to begin building operations before he gives his plans any general public discussion.

Representatives of Mr. Hammond are in Portland securing instruments to close up the surveys as soon as possible. Engineer Taylor has been instructed to push the work, and by early next year it is expected that conductors on A. & C. trains will be shouting "Tillamook" to announce the arrival at the southern terminus of the road.

SUNSET BACK IN OLD FORM

"Midsummer Oregon," From Pen of John Gill, Tells of Vacation Spots.

The August Sunset is a special Oregon number, and contains a great deal of information about this state. The magazine has regained the form it had prior to the earthquake and is a symbol of the newer and better San Francisco. The leading article of the month is from the pen of John Gill, of Portland, on "Midsummer Oregon." Under this caption he tells of the delightful Summering spots the state offers, and weaves in her industrial and commercial importance as well. "Mining in Southern Oregon," and "Oregon's Wool Industry," attract attention to two of the state's leading activities, illustrated, as they are, with many cuts and written in instructive fashion. The usual departments of the

magazine make up for the enforced short measure of the months immediately following the earthquake.

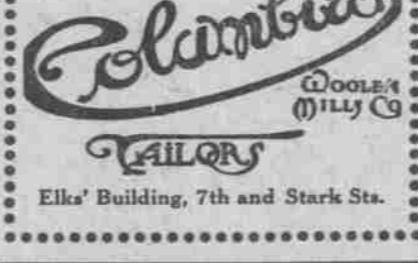
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These suits are all they are said to be—the best of woolen fabrics and patterns, made up into perfect-fitting, good-wearing garments. We guarantee them.

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Broken lines of our regular 75c Shirts in various colors and patterns, reduced to

49c

MOYER THIRD and OAK

LOCOMOTIVE CATCHES FIRE

Runs Down Fourth Street With Wood on Tender Blazing Merrily.

A locomotive backing down Fourth street with the wood on its tender after startled people on that thoroughfare yesterday afternoon. The blaze was extinguished without damage to the engine, and no damage of any consequence resulted to the engine.

WARNINGS GIVEN BY DOGS

BURROS, TOO, ADVANCE AGENTS OF CHILEAN EARTHQUAKES.

Former Howl, Latter Bray as Danger Draws Near, Says Former Valparaiso Resident.

Mrs. Nina Larowe, of this city, is one of several Portlanders who have lived in the destroyed City of Valparaiso, Chile, and while her residence there was in the early '90s, her reminiscences of that port are delightful and recall the fact that American tourists are too prone to rush to Europe on their travels instead of going to the wonderful scenic beauties of countries in their own hemisphere. Mrs. Larowe's father, James Churchman, was one of the most prominent lawyers of the West in early days, and when his personal friend, Lincoln, was elected President, received the appointment of Consul at Valparaiso. At that time this consulate was of more importance than at present, as all vessels rounding Cape Horn put in at that port, and the shipping was more extensive than now.

"My mother and myself went to Chile on a sailing vessel in 1852," said Mrs. Larowe, "joining my father, who went from Washington by steamer. We were 60 days making the trip, and it was one of the most beautiful journeys imaginable. We found Valparaiso a beautiful city of between 70,000 and 80,000 inhabitants, a center of wealth and fashion such as we had not seen in this country, even in our residence in New York. There is purer Spanish blood in Chile than in any other South American country, and the beauty of the women there has never been exaggerated. Before we started, many people sympathized with us on going to such a distant and presumably uncivilized region, but we found it an ideal city.

OBJECTS TO BLASTS

South Portland Man Asks for Injunction Against Quarry.

Declares It a Nuisance

Says His Wife Has Been Made Ill by Shocks From Explosions, and Is Obligated to Live Away From Home.

William Martzloff yesterday began proceedings in the State Circuit Court, against the Willamette Stone Company to enjoin the latter from operating a rock quarry on the Bonita Carothers donation land claim in South Portland, adjoining Martzloff's dwelling. Judge Fraser, on the application of Ed and A. R. Mendenhall, attorneys, signed an order requiring the Willamette Stone Company to appear in court on August 29 and show cause why an order should not be granted commanding its officers and agents to desist from exploding blasts of powder and dynamite in the hillside opposite Martzloff's home.

Mr. Martzloff alleges in his complaint that the defendant has been operating a rock crusher and blasting stone, by reason of which his dwelling house, has been greatly jarred and shaken, and his wife, who is an invalid, has been afraid to remain in their home, and he has been compelled to move her away.

Mr. Martzloff some time ago sued J. W. Sweeney, a contractor, for damages in the State Circuit Court, alleging that rocks from the quarry were scattered by blasts and struck his (Martzloff's) house and caused Mrs. Martzloff to become panic-stricken and made her ill. Nominal damages were awarded. The quarry is located just above Marquam Gulch, and Martzloff's house is located below.

GIVEN SENTENCE OF 30 DAYS

W. J. Williams Pleads Guilty in Circuit Court to Statutory Offense.

W. J. Williams, charged with a statutory offense with Catherine Long, pleaded guilty in the State Circuit Court yesterday and was sentenced by Judge Fraser to 30 days in the County Jail. Sentence was deferred in the case of Catherine Long upon condition that she go to the Home of the Sisters of the Good Shepherd and remain there one year.

BOYS GO INTO BUSINESS

Former Western Union Messengers Open Messenger Office of Own.

Two former Western Union messenger boys have branched out into business for themselves and have incorporated the Portland Messenger & Delivery Company, with offices at Fifth and Ankeny streets. The enterprising young lads are Nelson S. Borland and Alexander A. Oller, both of whom have had several years' experience with local messenger companies and are officers in the Messenger Boys' Union. According to their incorporation papers, they are to do a general messenger and delivery business in this city and vicinity, and incidentally to embark into

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