

SUPREME COURT DECIDES MARQUAM CASE IN FAVOR OF THE TITLE COMPANY

Suit to Recover the Marquam Block and Tract of Land Is Lost--Decision of Lower Court Is Reversed.

Court Holds Company Had Right to Buy in the Property.

(Special Dispatch to The Journal.) Salem, Or., Dec. 4.—The supreme court this morning decided the famous case brought by P. A. Marquam against the United States Mortgage & Trust company, the Title Guarantee & Trust company and J. Thorburn Ross in favor of the defendant, reversing the lower court and giving possession of the Marquam block in Portland to the defendant.

The records in the case comprise several volumes and are the most voluminous in Oregon courts. Property valued at more than \$1,500,000 is involved. The opinion was rendered by Justice Bean. The question to be decided was whether the trust company had the right to purchase the property. Following are extracts from the opinion:

"The title company's relation to the property under the law and facts, with the purpose to provide a fund for the purpose of collecting and disposing of rents and profits. It was simply a part of a scheme to secure the payment of loans from the mortgage company."

"The trust created by the agreement was confined to mere possession of property, and was limited to its management, for the purpose of collecting and disposing of rents and profits. It was simply a part of a scheme to secure the payment of loans from the mortgage company."

"The claim that the foreclosure suit was commenced by the mortgage company at the request and instigation of the title company, with the design of securing the property, was contradicted by the officers of both companies, and the circumstances of the case. There is no evidence to show, or to tend to show, that the company was anxious to have the mortgage foreclosed. Indeed, the action and the conduct of the officers indicated the contrary purpose."

"The victors in the long legal struggle will at an early date begin the improvement of the property. We have held everything in abeyance pending the outcome of this suit," said J. Thorburn Ross this afternoon, "but now that it has been decided we will get together and outline our plans of improvement as soon as practicable. We will do a large amount of work there. The wiring is one important thing to be looked after. I've no doubt the Marquam will be remained he throughout any rate, there will be no more patch-work of any kind. We will spend a large sum of money on the property, but it will require a little time to fully decide what is needed."

"The decision in the Marquam case does not materially affect the Marquam Grand theatre and its present policy. Those who have the interest of the house at heart have long deplored the fact that it cannot be opened on Sundays for theatrical entertainment. Mr. Marquam, it is understood, was favorable to Sunday opening, but the trust company is opposed and the house will be open only six days of the week."

"The litigation just decided by the supreme court grows out of the following facts: In the summer and autumn of 1894 P. A. Marquam was the owner of the block of land bounded by Sixth, Seventh, Morrison and Alder streets, and also of an 88-acre tract on the sandy road, about a mile from the city limits. Marquam at that time was heavily encumbered and his creditors were pressing for the settlement of their claims. The block bounded by Sixth, Seventh, Morrison and Alder, being block 178 of the city of Portland, was subject to a mortgage in the sum of \$250,000, on which the interest was \$20,000 in arrears. This block was also subject to two attachments and to a mechanic's lien for repairs effected on the Marquam building, for which Marquam was unable to make payment."

Defendant Not Guilty of Violating Any Implied Trust.

therefore entered into, described by the parties as an agreement of trust, under which the property was committed to the care of the title company, which company was to collect all rents, to disburse them in a manner defined by the agreement, and to be protected in any advances which it might make, Marquam agreeing to repay the same, with 10 per cent interest.

The revenues proved wholly inadequate to the payment of interest and fixed charges and the title company made additional advances from its own funds for the purpose of meeting these charges. In this manner its debt grew from \$18,000 to \$40,000.

Notwithstanding the advances which were made by the title company, a default was made in the payment of interest to the United States Mortgage & Trust company. Finally, on the 30th of October, 1899, the United States Mortgage & Trust company brought a suit to foreclose its mortgage, joining the Title Guarantee & Trust company as a party defendant.

The title company filed a cross-bill, setting up its claim to a lien on the property in the sum of \$40,000, and Marquam made his defense to both claims. He charged the Title Guarantee & Trust company with misappropriating the rents of the property and with gross fraud and negligence in various particulars.

The case was tried out and the issues were determined against Marquam, both in his controversy with the United States Mortgage & Trust company and with the Title Guarantee & Trust company. The findings were that the title company had been careful and most honest and had discharged its duties in the premises. The lien of the title company was fixed as a second mortgage on the property. The final decree was passed on the 27th of October, 1900.

The property was sold by the sheriff's sale on the 10th of December, 1900, and was purchased by J. Thorburn Ross of the United States Mortgage & Trust company and the Title Guarantee & Trust company. The title company accepted a mortgage for \$300,000 for the remainder of its claim.

The title company being unwilling to execute a mortgage on the property, the title was transferred to the Oregon company, a subsidiary corporation, controlled by the title company, which, according to the contention of the defendants in the present litigation, has been the owner of the property ever since.

Marquam appealed from the decree of October 27, 1900, and also from three subsequent decrees settling the accounts of the Title Guarantee & Trust company, discharging it from all of its obligations and confirming the purchase made by J. Thorburn Ross. All of these matters were litigated in the supreme court and the decree of the lower court, passed by Judge Cleland, were in all cases affirmed.

Dr. E. L. House Electrifies Ministerial Association by Bitter Words Directed Against Dr. C. T. Wilson.

Then Preacher Apologizes for Bitter Word, But Maintains That There Was No Truth in Statement of Dr. Wilson That There Was a Plot to Run Suffrage Indorsement Through

"If Dr. Wilson or any other man says that there was a plot to run this matter of woman's suffrage through, I say he is a liar!" The Portland Ministerial association was electrified by this statement this morning from Dr. E. L. House, pastor of the First Congregational church, after two hours of heated discussion, teeming with caustic personalities, following the attempt of the Suffrage association to secure the indorsement of its cause. A moment of silent amazement followed, and then came cries of "shame" and hisses, and Dr. House angrily repeated the statement, though the "strong word" was drowned in the sounds of disapproval.

"I apologize for the strong language," he said as calmness seemed to come to him. "I was aroused; but I want to put myself right in the eyes of the association and tell them that there was no such plot as Dr. Wilson imputes to me."

The words followed a bitter discussion by the members of the Ministerial association of the relative merits and demerits of woman's suffrage which came up after a resolution had been offered indorsing the movement. The body of ministers was made up of men with firm convictions on both sides, and a large number of women were present to hear the result of an interesting debate, among whom were Miss Gail Laughlin, the attorney for the state association.

Dr. Clarence True Wilson, who is conspicuously against women in politics, talked long on his side of the question, giving what seemed a carefully prepared address. When at the close of his speech Dr. Brougher made a motion that the speeches be limited to 10 minutes, and then added, with a sparkle of wit:

Financial powers behind the Vancouver & Suburban railway have refused the franchise granted by the Vancouver city council. It is reported that the result, if not remedied by the passage of another franchise, will be to send the trains of the Chicago, Milwaukee & St. Paul railroad direct from Portland to the sound via a bridge at Lady's Island, leaving Vancouver off the main line.

At tonight's meeting of the Vancouver council the franchise matter will probably be brought up for reconsideration. Forbes & Goudy of Portland, financial agents of the eastern capitalists who are back of the Vancouver & Suburban road, are hopeful of securing desired changes in the franchise. One of the principal objectionable features practically cancels all privileges granted if for any reason the company does not have in operation every foot of the right of way conveyed within a certain limit of time.

LIE IS PASSED BY PREACHER

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VANCOUVER FRANCHISE TO MILWAUKEE REFUSED BY THE ROAD

Unless Town Council Grants Some Less Restrictive Permit the Line Will Run Direct From Portland to Sound Via Lady's Island Bridge.

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RUSSIA FACES A CRISIS

Mutinies of Troops Occur at Warsaw and Many Other Stations Throughout the Empire.

MOSCOW REPORTED TO BE IN HANDS OF MOB

Telegraphers Strike in Finland to Assist Brethren, Tying Up All Wires--Many Mutineers at Sevastopol Courtmartialled and Shot as Traitors to the Czar.

(Journal Special Service.) Berlin, Dec. 4.—Dispatches received today state that mutinies of troops have occurred at Warsaw, Kursumnik, Barakoff, Kherson, Novgorod, Grodno and Kharhoff. The imperial guard at St. Petersburg is also reported to be in open revolt.

General disorder prevails throughout the cities and the government is powerless to quell disturbances. Many regiments of artillery have been concentrated about the capital, but the soldiers have refused to fire.

Thirty-four provinces of European Russia outside of Poland, Finland and the Caucasus are now in a state of insurrection. More than half the population of European Russia reside in these districts. A number at Kioff is reported to have been promptly quelled by troops after a pitched battle in which 50 persons were killed and 100 wounded. Two regiments at Odessa were disbanded after having refused to obey orders.

OMINOUS SILENCE IN SENATE

No Response When Names of Mitchell and Burton Are Called.

BINGER HERMANN AND WILLIAMSON ABSENT

Some Adverse Feeling Against Oregon Senator Among Members--Representatives Are Not in the Capital City.

CONGRESS OPENS WITH BRIEF SESSIONS IN BOTH HOUSES

Speaker Joseph Cannon Re-elected by Strict Party Vote Over John Sharp Williams of Mississippi.

SENATE ADJOURNS OUT OF RESPECT TO PLATT

President's Message to Be Delivered Tomorrow--A Most Comprehensive Document--Railroad Rate Measure Most Prominent Feature--Senator Fulton Introduces Bills.

(Journal Special Service.) Washington, Dec. 4.—The Fifty-ninth congress was opened today with a brief session in both house and senate.

The presentation of the president's message having been deferred until tomorrow there was practically no business outside the usual first day routine. The time of both bodies was devoted to the usual formalities of opening day.

There was the usual exchange of greetings among members, the introduction of newcomers, the great floral display and the hundreds of visitors with beautifully gowned women predominating. Corridors, committee rooms and cloak rooms were thronged and the bustle extended even to the floors of the chambers.

VICE-PRESIDENT FAIRBANKS

Called the senate to order on the stroke of 12 and simultaneously the house was called to order by Speaker Cannon.

Prayers were made by the chaplain, Rev. Dr. Edward Everett Hale in the senate and Rev. H. N. Couder in the house.

In both the senate and the house committees were appointed to wait upon the president and inform him that congress was in session. In the house Clerk McDevall called the roll and the administration of the oath of office and the drawing of seats followed. In the senate resolutions of respect to the memory of the late Senator Platt of Connecticut were adopted and the adjournment was in further tribute to his memory.

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ATTENDS SWELL WEDDING IN GLARING PINK SHIRT

English Army Captain and Millionaire Horrifies Pittsburg's Exclusive Smart-Set.

(Journal Special Service.) Pittsburg, Pa., Dec. 4.—Pittsburg society is horrified over the fact that Captain Edward Harbord, grandson of Mrs. May E. Schenley, formerly of this city, who died leaving an estate of more than \$10,000,000, attended a swell wedding here wearing a glaring pink shirt.

GRAZED WOMAN HOLDS FORT IN SIDETRACKED CAR

Mrs. Anna Berry Is Still in Possession of Car--Woman Not Widow of Officer.

(Journal Special Service.) Girard, Kan., Dec. 4.—Becoming suddenly crazed, a passenger supposed to be Mrs. Ann Berry, en route to Tulsa, I. T., yesterday drove all her fellow passengers from the car at the point of a pistol and barricaded herself in the toilet-room. The car was sidetracked here, although there is no fire and the woman has had nothing to eat, she still refuses to allow any one to enter the car, threatening to shoot.

MANY DELAYS IN PAYMENTS BY MUTUAL RESERVE

Insurance Investigation Shows Liens and Assessments Taken From the Face Value.

(Journal Special Service.) New York, Dec. 4.—Senator Armstrong, chairman of the insurance investigation committee, said this morning that he hoped there would be five sessions this week and that the work would be ended by the end of the month, but the committee would if necessary continue after January 1 without a new resolution of the legislature.

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