

The Daily Astorian.

(1)

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No. 112.

THE ASTORIA LAND GRANT.

Last December we published a decision of the secretary of the interior relative to a land grant in Minnesota, which was of an analogous case with the Astoria Land Grant in this county. One of our leading citizens who takes an interest in the matter wrote in reference to the matter to the editor of the Washington Reporter. He says:

ASTORIA, Oregon, Dec. 11, 1882. To the Editor of the Reporter:

The state of Oregon and people, and Astoria chamber of commerce, have repeatedly petitioned congress to declare forfeited the unearned and abandoned portion of the Oregon Central railroad grant, but without result. Would you be so kind as to state whether settlement can now be allowed under the recent decision of the secretary of the interior in the case of Wenzel vs. St. Paul, Minneapolis & Manitoba railroad company. Respectfully,

Oregon.

Following is the reply:

Settlement and entry is in our opinion now allowable by law within the limits of any land grant where the road was not completed at the date fixed by statute. The settlement and entry protected by the act of April 21, 1876 (3d Sec., 19 Stat., p. 55) is that settlement and entry which is required under the usual rules and regulations governing pre-emption and homestead entries. Such entries, within the limits of expired railroad grants, are declared valid, and patents are to be issued thereon as in other cases.

The act is mandatory, and in its legal effect is a legislative declaration of forfeiture of all lands within the limits of land grants where the roads have not been completed in the time fixed by the granting acts, so far as such lands may be claimed by settlers under the homestead or pre-emption laws.

It is further in legal effect a legislative revocation for settlement purposes of all withdrawal of lands made for such roads, whether the withdrawals were originally authorized by law or not.

Mr. Carl Schurz, civil service reformer and editor of the Northern Pacific Railroad company's New York newspaper, attempted when secretary of the interior to nullify this act of congress, but Secretary Teller, who appears to have some respect for the laws of his country as well as for his own official character and obligations, and who is not very much engaged in the nullification business for the benefit of repudiating railroad companies, has found it to be his duty to enforce the act his predecessor ignored.

The decision to which you refer, and which was first published in the October number of the Reporter (Wenzel vs. St. P., M. & M. Railroad company), is a clear and conclusive statement of the law as found in the act of 1876.

We apprehend that the law was the same before the passage of that act, particularly as to the grants of the character of those in Oregon. The inhabitation of settlement by a withdrawal of lands is an incident to a grant; where a grant fails the incidents fall with it. The land being freed from the grant, becomes again public land by virtue of that fact. It only wanted a little intelligence to see, and enough integrity to declare and execute the law. The trouble was that defaulting railroad companies did not want the law ascertained or carried out, and as they ran and apparently owned the interior department, from the secretary down,

it was not ascertained and it was not carried out.

Most of the lands within the geometrical limits of the grant for the Oregon Central railroad had previously been granted to the Northern Pacific, and are also within the geographical limits of the Oregon and California railroad. The Northern Pacific never definitely located its line, and that grant expired July 4, 1877, and was probably forfeited before that time. The Oregon and California road was not completed in time, and its grant ceased by positive provisions of law on the 1st of July, 1880. But as lands in one grant cannot be embraced in any subsequent grant, it follows that neither the Oregon & California nor the Oregon Central had any grant where the lands were within the limits of the grant to the Northern Pacific. Whether the Northern Pacific ever acquired any rights to these lands under these grants is not material so far as the other roads are concerned. They could acquire no rights to such lands because of the grant and reservation of them for the Northern Pacific. Lands reserved under one grant, or for any other purpose, do not pass with any later grant. So the case stands thus:

1. The lands were not granted to the Oregon Central because embraced in the prior grant and withdrawal for the Northern Pacific.

2. They were not granted the Oregon & California for the same reason.

3. The grant to the Northern Pacific never became effective so as to give that company any legal claim to the lands.

4. The Northern Pacific grant with conditions precedent as intelligently described by Judge Deady—who deserves a seat on the supreme bench—the grant became null by operation of law on July 4, 1877.

5. There is, therefore, no grant at all of the lands in question now existing.

The foregoing propositions are, we think, incontrovertible. And now comes the act of April 21, 1875, which sweeps out of the way all the chicanery of railroad apologists and plainly and emphatically commands the department of the interior to respect the laws and to regard bona fide entries within the limits of the railroad grants as valid when made in the usual way after the expiration of the grants, and issue patents accordingly.

Secretary Teller decides that the words "the expiration of the grants" means the dates fixed by the granting acts for the completion of the roads.

We see no good reasons why settlers should not present their claims, under the third section of the act of 1876, in every case of actual settlement upon lands within the limits of such expired grants.

A Loud Call.

Wanted: A partner in the Monitor office who can edit a paper and quarrel and fight and play politician or non-politician, collect money and at the same time pretend that he don't want it; who can run a newspaper without money as well as with it; who can print a paper so loud that a deaf and dumb person can read it before he gets out of the postoffice; who knows more about the newspaper business than Horace Greeley did. We want a man who will fight with a big nigger for a subscription. In fact, we want a man who can blow hot and cold at the same time, who can carry water on both shoulders,

who can bark with the dogs and run with the rabbits. Such can find lucrative business with the Monitor.—Oconee Monitor.

A charming and foolish young woman of Springfield, Massachusetts, answered a matrimonial advertisement, carried on a correspondence with the advertiser, accepted his offer of marriage, and traveled to Denver to meet and wed her rich, handsome and wealthy suitor. She found a bald-headed sinner of 60, homely as men are made, and so poor that one small room in a dingy boarding house was the only home he could afford. Disappointed, home-sick, disgusted, she married him. Three days thereafter she ran away and he kept her trunk, containing all her wardrobe. That caused her return. Again she ran away from him, this time taking his clothes with her, but leaving her own behind. Another temporary reconciliation was effected, and then she said candidly, "I hate you." He agreed to a separation, and she telegraphed (C. O. D.) to her mother for money for her return fare. May it be ever thus.

The man who boasts that he always says just what he thinks doesn't always think just what he says.

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Little Jack Horner sat in the corner eating concentrated lye; his mother came in—he had emptied the tin. They will meet in the sweet bye-and-bye.

MOTHERS, READ.

GENTS:—About nine years ago I had a child two years old and almost dead. The doctor I had attending her could not tell what ailed her. I asked him if he had not think it was worms. He said no. However, this did not satisfy me, as I believed in my own mind that she had. I obtained a bottle of DR. C. McLANE'S CELEBRATED VERMIFUGE (gentle). I gave her a teaspoonful in the morning and another at night after which she had seventy-two worms and was a well child. Since then I have never been without it in my family. The health of my children remained so good that I had neglected watching their actions until about three weeks ago, when two of them presented the same sickly appearance that Fanny did nine years ago. So I thought I must be worms, and went to work at once with a bottle of DR. C. McLANE'S VERMIFUGE between four of my children, their ages being as follows: Alice, 8 years; Harry, 4 years; Emma, 6 years; John, 5 years. Now comes the result: Alice and Emma came out all right, but Harry passed forty-five and Johnny about sixty worms. The result was so gratifying that I spent two days in showing the wonderful effect of your Vermifuge around Utica, and now have the worms on exhibition in my store. Yours truly, JOHN PIPPLE.

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W. E. DILLARD, Attorney at Law. OFFICE AT ST. HELENS, OREGON. Will attend terms of Court at Astoria, Kalama and Portland.

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Notice. THERE WILL BE A SPECIAL MEETING of the stockholders of the Columbia Canning Co., held at their office on Saturday, Feb. 10, 1883, at 2 o'clock P. M. By order of the President. THOMAS DEALEY Secy.