

# INDEPENDENCE ENTERPRISE

AND WEST SIDE.

TENTH YEAR.

INDEPENDENCE, POLK COUNTY, OREGON, NOVEMBER 26, 1903.

NUMBER 52

## CLAIMANT IS LOSER.

### Final Proof on Timber Lands Practically Impossible.

The recent ruling made by Secretary Hitchcock, of the Department of the Interior, revising and regulating the modes of procedure in the making of final proof on timber land applications, is significant and so far reaching consequence to the timber interests of the state, but more particularly to the individual applicants for the purchase of these lands. While the enforcement of the ruling has the apparent purpose of requiring compliance with the general land laws of the government, a strict enforcement of Secretary Hitchcock's instructions will practically accomplish the withdraw of all government timber land from entry.

Since all government lands are intended for purchase by individuals for their benefit and the development of the land, the recent decisive ruling by Secretary Hitchcock on this subject, practically closing these lands to entry and settlement by disinterested claimants, naturally presupposes some plan for the disposal of these lands other than that contemplated by the general land laws.

A new interpretation to the term "speculation" has been given by Secretary Hitchcock in connection with the timber and stone land act of 1878. It is held that any one who takes up a piece of timber land, excepting at any future time to dispose of the same at a consideration in advance of what the land actually cost, is a speculator within the meaning of the law. Upon this disclosure, in connection with the examination of an applicant for the purchase of such land, the application is rejected and dismissed.

Under this ruling by the department, the only persons who are permitted to purchase these lands, are those who will swear that they own land in the vicinity of the timber land, for the purchase of which they made application, and that they desire the timber for personal use. The only person who can conscientiously swear that he needs the timber for his own use, is a rancher so far removed from a mill or where timber is sold, that he cannot buy sawed lumber. On the other hand, if the applicant admits that he expects to manufacture the timber into lumber and sell it at a profit, it is held that his purpose is speculation, which disqualifies him as a lawful purchaser and excludes him from the benefits of the timber and stone act.

A strict construction of the department's ruling makes it practically impossible for the applicant to make final proof on

timber land, for the purchase of which he has made application in regular form. If the applicant now gains title to timber land, in making final proof he must either perjure himself and disclose his roguish designs or he must reveal a pitiable mental condition. It is believed that the purpose of the law contemplates the placing the applicant in either of these positions.

Under the old procedure, the only questions asked of the applicant were those touching on his nativity and residence in this country, the nature and probable value of the lands represented in the application and the declaration that he had not sold or transferred his claim to the land after making a statement, that he had not, directly or indirectly, made any contract or agreement, in any way or manner, with any person whomsoever, by which the title he might acquire from the government of the United States might injure, in whole or in part, the benefit of any person except himself; that the entry is made in good faith for the appropriation of the land to his own use, and not for the use and benefit of any other person; that no other person, firm or corporation has any interest in the claim or the timber on the land which he had made application. The usual form of cross-examination of the applicant by register and receiver of the local land office included questions as to residence, occupation, circumstances, under which the claim was filed upon, and whether or not the applicant furnished, unaided, from his own earnings, the money that was required to meet the expense of filing on the land. The witness for the claimant is also cross-examined by the land officials as to his acquaintance with the person making the filing; what he knows of the financial condition of the applicant, and further if he knows from his own knowledge whether or not the applicant has enough money of his own to pay for the land without mortgaging it. Formerly this was the extent of the examination of the applicant and his witness.

But under the present programme the applicant is taken in charge by a special instructor as soon as the regular form of examination and proof making has been complied with. He is taken into a private office, unaccompanied by his friends or attorney, and then is put through a cross-questioning that would reflect credit on the criminal department of any police station. The proceedings are conducted chiefly on the star-chamber order. Absurd and irrelevant in the extreme are many of the questions fired at the witness, who, if he admits

in any way that he might at some time accept more for the property than it actually cost him, his claim is vitiated. The decision is final so far as the local office is concerned, and the only right remaining to the individual is an appeal to the land commissioner at Washington, and since the order calling for this form of procedure emanated from the secretary of interior, the applicant stands a poor chance of getting a reversal of the decree of the lower office.

The officials of the Oregon City Land Office are exceedingly noncommittal on the subject, and will not discuss the recent ruling of Secretary Hitchcock. While it is claimed that the new ruling was first proposed by the Interior Department nearly a year ago, it has been recognized and enforced at the local land office for the last two months only, or since the arrival of Special Inspector Hobbs, who was transferred to this point from New Mexico.

It is known that in the last two months more than 50 per cent of the applications for the final proof on timber lands at the Oregon City office have been rejected. In that length of time probably 200 claimants have appeared before the local office. The new ruling is not only being applied to entries upon which final proof has not yet been made, but many patents in this district are now held up at Washington because the applicants, relying on the decision of the United States courts, have admitted in making their final proofs that at some future time they might dispose of their claims at a profit, or, in other words, receive for them more than \$2.50 per acre, that amount paid the government for the lands. It has never before been held by the General Land Office that the words "exclusive use and benefit" could be construed to mean that a person could not reap the benefit of his claim at some future time by selling it at a profit. By the new construction an entryman would have to use the timber in his own building operations or else build a saw-mill and cut it into lumber, and then by a strict construction, he would be prevented from selling the lumber.

There is also a business aspect to the situation. Business men in this community are concerned in the ruling of the Interior Department, although many of them have not claims. Men having idle capital have lent considerable money to persons filing to supply the necessary purchase price of \$400 for each claim. The cost to the applicant in locating on a timber claim amounts to about \$430. Men making these loans have in many instances taken

mortgages on the land for security. If the patents to the lands in which they are interested are refused, then their security will also be gone, and the money that has been advanced on the claim by the applicant will be appropriated by the Government. Both the applicant for the timber land and the man who advanced the money with which to defray the expense of filing on the claim feel that the ruling is unjust since it has always been held that the entryman has always had the right to mortgage, as long as there was nothing fraudulent in the transaction.

The majority of those who have filed on claims in this district and have not yet proven up will offer their proof and pay their money, relying on the former interpretation of the word "speculation" being continued in force and the new rule being reversed. A number of cases that were rejected in Oregon City Land Office have been appealed to the commissioner of the General Land Office, where Secretary Hitchcock's ruling will be tested at once. It practically repeals an act of Congress, and it is argued cannot stand a judicial test.

In providing this departure for making of final proofs the general land office has failed to formulate a rule that will prevent the scripper from placing his scrip on this land withdrawn from the individual purchaser, but allows the scripper to make 200 to 100 per cent on his purchase. Scrip is now valued at \$5 per acre, and more scrip has been issued than there is valuable land. This fact tends to depreciate the market of this negotiable paper, which at the same is valuable paper. Timber lands are readily from \$12 to \$20 an acre, so an idea may be gathered of the profit that is made by holders of scrip in seizing available timber lands.

The motive of the land department in providing this stringent examination of applicants in making final proof is an open question. Many do not hesitate to charge that the real motive is the cancellation of as many individual claims as can be made under this technical ruling in the interest of the large corporations and gigantic timber concerns which held the bulk of the scrip. Whatever may be the purpose aimed at, it is a certainty that if the new rule is upheld by the courts it will be but a short time until every acre of the government lands will be appropriated by wealthy lumber firms and scrip holders generally.

Lyon Lodge No. 29, A. F. & A. M., meets Saturday night, and degree work will be conferred. All visiting brothers cordially welcomed.

## CHRYSANTHEMUM FAIR.

### Was an Elaborate Affair and a Financial Success.

The ladies of the M. E. church gave their chrysanthemum fair at the opera house Friday evening, and were greeted by a large, enthusiastic audience. The program was one of much excellence and the exhibit of chrysanthemums was a most choice one. The ladies will realize a nice sum above the expenses, which will be applied to church labor.

#### THE PROGRAM.

Piano Duet..... Mrs. Babbitt and  
..... Miss Bowden.  
Vocal Solo..... Miss Sadie Craven.  
Recitation..... Miss Edith Owen.  
Piano Solo..... Julien Hurley.  
Chorus..... Children.  
Solo..... Mrs. E. E. Paddock.  
Select Reading. Miss Nellie Burke.  
Vocal Solo..... Mrs. M. L. Dorris.

#### PRIZES.

First prize pink... Mrs. A. Nelson.  
Second " " .. Mrs. W. G. Sharman.  
..... Mrs. W. G. Sharman.  
First prize white. Mrs. R. H. Knox.  
Second " " .. Mrs. A. Nelson.  
First prize yellow, Mrs. R. H. Knox.  
Second " " .. Mrs. W. H. Walker  
First collection ten, Mrs. A. Nelson.  
Second " " .. Mrs. D. A. Hodge.  
First collection five, Mrs. A. Nelson.  
Second " " .. Mrs. W. G. Sharman.

## UP-TO-DATE JOURNALISM.

### Salem Gets Word of S. P. Line From Salem to Independence Before Any of the Officials Know About It.

November 17th., 1903.  
INDEPENDENCE ENTERPRISE,  
Independence, Oregon:  
Gentlemen:-

Replying to your note of the 16th inst., in reference to article in the Salem Statesman that this Company is talking of building from Salem to Independence, I beg to say that nothing is known here of such a move.

Yours truly,  
R. KOEHLER,  
Manager.

### Suver School Report.

Following is a report of the Suver school for the month ending November 13:

Total number enrolled..... 21  
Average daily attendance..... 20½  
Number times tardy..... 0

Those who were neither absent nor tardy during the month are: Fred Suver, Nora Suver, Florence Allen, Sylvia Allen, Lillie Erickson, Walter Erickson, Willie Helmick, Otto Steele, Lenora James, Charles Erickson, Elmer Maxfield, Harland Wheeler, Alma Ruef, Vada Ruef, Gladys Ruef and Carl Larsen.

We are very glad to note that the interest in the school is growing, and that many of the pupils are taking their books home for the benefit of home study. The splendid attendance is good evidence of the interest shown, and we ask the continuance of the co-operation of every pupil and patron, that the greatest possible good may result from the school. If you can do us any good, do so; if you can do us any harm, don't.

R. W. SWINK,  
Teacher.