

WAGON ROAD CASE.

JUDGE GILBERT'S DECISION.

Titles Given by the Willamette Valley & Cascade Mountain Wagon Road Company are Good.

(CONTINUED FROM LAST PAGE.)

On March 2, 1889, congress passed an act directing the attorney general to cause a suit to be brought against all claimants of the lands granted for wagon road construction, "to determine the question of the reasonable and proper completion of said road in accordance with the terms of the granting act, either in whole or in part, and the legal effect of the several certificates of the governor of Oregon of the completion of the road, and to declare forfeited to the United States any land not earned in accordance with said act, saving and reserving the right of all bona fide purchasers of such lands for valuable consideration," and providing that said suit or suits should "be tried and adjudicated in like manner and by the same principles and rules of jurisprudence as other suits in equity are therein tried."

In pursuance of the authority conferred upon the attorney-general this suit was commenced by the United States against the wagon road company and the subsequent grantees of the lands in question. The bill sets forth the facts above enumerated and alleges that no section of the road was constructed as required by the act within the time limited therein, that the certificates of the governor were fatally defective in form and were procured by the fraud and misrepresentation of the wagon road company, and that the present grantees of the land from the wagon road company purchased the same with knowledge of said facts.

ANSWER OF THE DEFENDANTS.

To this bill the defendants, Alexander Weill and David Cahn, make answer, setting forth the following defenses:

- 1. That the road was completed in all respects as required by the granting act, and within the time therein limited.
2. That the certificates of the governors of Oregon were by the act made conclusive evidence of the completion of the road, and that upon the strength of said certificates the defendants became bona fide purchasers of the lands.
3. That conceding that the road may not have been completed within the time limited, nevertheless, and before any declaration of forfeiture by the United States, the road was fully completed in the manner required by the act, and thereby the forfeiture was avoided.
4. That the defendants, after purchasing said lands, relied upon the action of congress in 1874 in directing the issuance of patents to said land, and upon the result of the investigation made by congress above referred to, and the action of the secretary of the interior after his investigation in 1882, directing the issuance of patents, and in consequence thereof expended large sums of money in and about said

(CONTINUED ON SIXTH PAGE.)

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