

### Monthly Digest Important Land Decisions

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#### Homesteads.

Settlement upon land while it is covered by the entry of another confers no right on cancellation of the entry as against the government.

The government's rights under any valid withdrawal at once attach to the exclusion of any settlement or other right fastened while such entry was of record.

In construing section 2289 of the revised statutes, the maxim, "De minimis non curat lex," cannot properly be invoked to justify a plain disregard of the statutory limit as to the area of the land ownership disqualifying from homestead entry. Case of Amidon vs. Hagdale (39 L. D., 131) overruled.

The homestead law is a donation of public lands conditional upon the performance of certain acts. Its purpose is to establish agricultural homes on the public domain, and, in case of the death of the entryman, the widow or heirs should proceed at once to cultivate during the proper season of each year and improve the land, and continue such cultivation and improvement for such period of time as, when added to the time during which the entryman had complied with the law, would make compliance for the full period required by the statute. Citing Schooley vs. Heirs of Varnum (33 L. D., 45.)

#### Desert Lands.

Where final proof on a desert land entry has been rejected by the commissioner of the general land office and appeal is taken to the secretary of the interior, accompanied by affidavits submitting new proof, which had not been considered by the com-

missioner, the case will be remanded again to the commissioner for adjudication upon the new record.

The law requires merely an annual expenditure to the requisite amount in good faith for purposes of reclamation. It does not require the first or any other annual proof shall effect reclamation, but the expenditure must be necessarily intended to effect it, and the reclamation must be effected within the time allowed. Citing Stevenson vs. Scharr (24 L. D., 475).

Mere expenditure to a required amount cannot be accepted as compliance with the law, but the reasonable value of the work done is the criterion, not the amount the entryman claims to have expended for it. Citing Bradley vs. Vasold (36 L. D., 106.)

When the land is withdrawn of record under provisions of law, in anticipation of an irrigation project, a prior entry thereof may be allowed when it appears that the land embraced in the entry is subject to irrigation and to a large extent irrigated, and is so situated as not to be irrigable from any government project in course of construction or even in contemplation.

When an entryman under the Timber and Stone Act fails to submit final proof on the day fixed therefor in the public notice, or within ten days thereafter, his timber and stone sworn statement ceases to have any effect to reserve the land from other disposition.

Subsequent application to readvertise, made after the withdrawal of the land, must be held subject to the conditions of that withdrawal. Citing Edith Curtis (33 L. D., 285.)

No rights are required by the new filing of timber and stone sworn statement as will, upon the death of

the applicant prior to proof and payment, descend to his heirs. Citing Burns vs. Bergh's Heirs (37 L. D., 161).

Although Rule 72 of practice provides that no motion for rehearing of the decisions of the commissioner will be allowed, yet in an ex parte proceeding, there would seem to be no reason why the commissioner of the general land office should not, upon his attention being called to an alleged mistake or oversight, and before the case had been taken from his jurisdiction by appeal, reconsider and correct his decision. Obviously, prior to an appeal, such action can be taken of his own motion.

When two applicants to contest are filed in the local land office simultaneously, the one which was sworn to first will have priority.

#### Mining.

It is now well settled that after the location of a valid placer mining claim in good faith, by an association of persons, each locator can convey his undivided interest to whomsoever he chooses, and the entire title to such claim may thereby become vested in one individual. Citing 187 Federal Reporter, 385.

It is not the policy of the Department to hear protests in mining cases while an adverse suit is pending and being litigated in the local courts. If the court, in that proceeding, should conclude to continue the trial until the protest could be heard and determined, the department would then be disposed to order a hearing thereon.

The term "vein or lode" does not mean merely a typical fissure or contact vein, but rather, any partly defined zone or belt of mineral bearing rock in place. To constitute a valuable discovery upon a claim for which patent is sought there must be actually and physically exposed within the limits thereof a vein or mineral bearing lode in place, possessing in itself a present or prospective value for mining purposes; and before patent can be properly issued or allowed thereon, that fact must be shown in the manner above stated.

When land is known to be chiefly valuable for coal, prior to approval of survey, no right will vest in a state, with respect to such tract under a school grant.

When there is a charge that the land is mineral in character and was known to be mineral at the date of final proof, the provisions of Section 7, act of March 3, 1891 (26 Stat., 1095) cannot be invoked to require issue of patent. Said act was not intended to include mineral entries nor lands mineral in character, known to be such at the time of final entry.

Section 2326 R. S. has exclusive reference to adverse proceedings instituted by one claiming certain ground under the Mining Laws against a mining applicant for the same ground, to determine the right of possession as between the parties to the proceeding. Citing Creed Co. vs. Unita Co. (196, U. S. 537).

TACOMA, Wn.—The National Council of Women Voters, headed by Emma Smith Devos, one of the leaders in the suffrage fight, will take up the matter of good roads.

### At the Churches

Medford Methodist Episcopal.

Medford Methodist Episcopal church, E. Olin Eldridge, pastor. Services Sunday as follows: Preaching, 11 a. m. and 7:30 p. m. Subjects: Morning, "Where We Live," evening, "How to Make Life Tell." Sunday school, 10 a. m.; Epworth League, 6:30; prayer meeting Thursday evening, 7:30. Excellent music under the direction of Prof. Chittoser. You are cordially invited.

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### The Traveling Salesman



At the Medford Opera House "The Traveling Salesman," a comedy by James Forbes, author of "The Chorus Lady," will soon be the attraction. "The Traveling Salesman" while primarily a comedy of the broadest kind, has also interwoven in the plot a story of much dramatic interest. Both Elliott, the station agent at Grand Crossing, is the owner of a piece of land of doubtful value, that is known locally as Elliott's stone pile. The taxes is overdue and Beth does not think it worth while to protect her interests at the delinquent tax sale, Martin Drury, a capitalist, is in possession of information that the railroad company needs Beth's land for some contemplated improvement and he arranges with Frank Royce, an admirer of Beth's, to buy in the property and divide the profits. In the meantime Bob Blake, the traveling salesman, arrives at Grand Crossing and falls under the spell of Beth's charm at first sight. He remains in the village over night and with Royce and some traveling men a poker game is started. During the progress of the game Royce becomes intoxicated and boasts of the fortune that he and Drury expect to realize out of the sale of Beth's property. Blake plans to frustrate their scheme and with the assistance of a friend Bob locks Royce up so that he will be unable to attend the sale. He buys in the property as Beth's representative and turns it over to her. As a fitting reward Beth promises to become Mrs. Bob Blake and the play has the proverbially happy ending. The management of the company promises an exceptionally good production and cast for this engagement. The part of Bob Blake will be played by Don MacMillan, who last season starred in "The Broken Idol." Miss Dorothy Gray will be seen in the role of Beth Elliott.

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