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McMinnville, Or. - - Feb. 25, 1887

Titlle to Mineral Lands.

The following letter from Senator Mitchell is self explanatory:
HON. A. J. APPERSON, Mc-Minnville, Oregon.

My dear sir: Responding to yours Jan. 27th, received yesterday, the same having been delayed by storms on the overland, I presume; I beg to say that the legal inquiry you make of me is a very important one, and not entirely free from doubt.

Your question as I understand it is this: "suppose an odd section of land included in the grant to a railroad company lies adjacent to completed road and has been patented to the company, and, subsequent to that, third parties discover a mineral ledge or lode on such section; what are the rights of respective parties?"

It is true the act making the grant only grants lands that are not mineral; but here is the difficulty. Somebody, or some department of the government must adjudicate the question at some time, or in some way, as to whether the lands are mineral or not. The decisions of the courts so far as they bear upon the question and have been examined by me are to the effect that the issuance of patent by the government is an adjudication or a decision of that question. Therefore, when the government issues a patent to a railroad company for a certain odd section, that is an adjudication that such odd section is not mineral, and that adjudication is binding on everybody, save and except perhaps the government itself. If the government; that is the department of justice; were satisfied a mistake had been made in the land office, and that a patent had been issued for land really mineral, then possibly the attorney general might proceed on behalf of the United States to set aside the patent as having been issued by either fraud or mistake.

So long therefore, as the patent stands third parties would have no right, in my opinion, as

a plain question of law; to prosecute a claim for minerals on odd sections included in the patent, and this rule, in my judgment, would apply to an odd section to which no patent had issued, provided such odd section is within the grant adjacent to road that had been completed and accepted by the government, as the supreme court of the United States has held that when a person or company is entitled to a patent it is equivalent to a patent issued.

I have examined this matter with some care, and this is my conclusion.

I am, very truly yours,
JOHN H. MITCHELL.

Men of Character.

Statesman.

Judge Boise, like Senators Simon and Carson and Representatives Goodsell and Harris, have offended the great daily of Portland, and it proceeds to castigate him as it did them, for what? Why, for doing exactly as the editor of that journal would have done had he been surrounded by the circumstances which influenced them. Neither democrats nor republicans can complain of the presidency of Senator Carson, which has been able and courteous, and no member stands higher in the esteem of his fellow legislators than Senator Simon. In fact the Oregonian acknowledges the ability of their wisdom and foresight by supporting every measure of general importance which they have advocated. Now they are all right with the great daily, and Judge B, who was all right a few weeks ago with the great daily, is now all wrong "and a bad man" merely because he thought Pennoyer's veto of the bridge bill should have been sustained. The Oregonian should not be so quick to evince a disposition to be all sugar or all salt. "Loyal men may differ," and Judge Boise, like representatives Goodsell and Harris, is none the less honest and esteemed because he cannot agree with the Oregonian in all its opinions.

In view of the fact that England has acquired a footing north of us, and in nearly all of the islands of the Atlantic and south Pacific, the United States is doing a timely good deed by securing a port in the Hiwaiian kingdom on the route of vessels to Japan and China.

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