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EVIDENCE IN THE CONTEST CASES'

**Homesteaders Must Prove
Actual Residence.**

GOOD INTENTIONS NOT SHOWN.

**Law is Not More Lenient to Single
Men Than to Married Men.**

All Must Comply.

Last week The Examiner published the text of three land decisions, and the evidence in one of them. For lack of time to set the type for all of them we could not publish the evidence in all of the cases. We have received numerous requests since our last issue to publish the evidence in full. As it is of considerable importance to those who have filed on lands recently thrown open to settlement under the homestead and timber and stone laws. The evidence in the following cases shows what must be proven in case of contest, and shows also what improvements are necessary to show good intention. Therefore, we are giving our readers this week the benefit of this evidence:

The Aztec Land & Cattle Co.'s case is to be heard again. This case involves a number of homestead and timber and stone entries. It will be seen that the Lakeview office has ruled in favor of the individual claimant and was twice turned down by the Secretary of the Interior, although sustained by the general land office. Finally, a new hearing has been ordered by the secretary of the Interior, and the claimants cautioned to comply with the laws under which they filed on the land, in the meantime.

Following is a condensed history of this case:

January 28, 1902, the Aztec company filed its School land indemnity list No. 178, for lands in sections 11, 12, 13, and 24, Tp. 37 Range 10, and list No. 188 for lands in sections 18, 20 and 30, Tp. 37 R. 11 1/2. All south east.

Feb. 8, 1904, the following lien selections under the Act of June 4, 1897, were presented at the Lakeview land office:

Aztec Land and Cattle Co., Ltd., by A. L. Venzie, its attorney in fact for lands in sections 2, 3, 11, 12, 14 and 24, Tp. 37, R. 10, south and east.

E. B. Perrin for lands in sections 3, 2, Tp. 37, S. R. 10.

E. B. Perrin for lands in sections 3, 18, 19, 20, and 30, Tp. 37, R. 11 1/2, a 1 in lieu of land in the San Francisco Mountains Forest Reserve, Arizona.

Feb. 10, 1900, the State of Oregon filed its relinquishments of all right, title and interest in and to its said section lists Nos. 178 and 188.

March 4, 1904, this office rejected the said applications for the reason that they were in conflict with numerous prior homestead and timber and stone entries, then pending, but since finally disposed of.

From this decision the Aztec company and Perrin appealed, and on March 30, 1905, the decision of this office was affirmed by the general land office, and the lien applications were rejected for the additional reason that they were, when presented, in conflict with state selection list No. 178, which was cancelled March 7, 1904, and No. 188, which was cancelled in part March 7, 1904, and the remainder Aug. 2, 1904.

Both parties appealed to the department, and the Secretary of the Interior vacated the decision of the general land office of March 30, 1905, and the papers were returned to the Lakeview office with instructions to accept the same and enter them of record.

December 6, 1905 these applications were again rejected at this office for the reason that the lands embraced therein were withdrawn from the Klamath River Irrigation project.

January 23, 1906, the decision of the Lakeview office was reversed and the papers again remanded with instructions to enter them of record, if no other objections appeared, as lien selections made Feb. 8, 1904.

March 5, 1906, the Register submitted a full report as to the Aztec company's application, including the status of one A. D. Daniels, alleged party in interest. He stated that there were objections to the allowance of the Aztec company's application, and such objections were:

The homestead entry of Frank Johnson, made December 10, 1904, for lands embraced in the applications and thirteen other homestead and timber and stone cash entries. An appeal was taken from this decision of the Lakeview office.

January 11, 1906, the Register sub-

mitted a similar report as to the Perrin applications, the same action having been taken.

The objections to the allowance were:

The homestead entry of William F. Bryan, made May 18, 1905, and eight other homestead and timber and stone cash entries made, subsequent to Oct. 3, 1904, and an appeal on behalf of Perrin, filed March 1, 1906, was transmitted.

The appeal of the Aztec company being first in order, was transmitted to the department and on June 26, 1906, the Secretary vacated his decision of October 25, 1905, and directed that the lien applications of the Aztec company be rejected.

In obedience thereto, the applications of the Aztec company and Perrin were again rejected.

Attorneys for the Aztec company and Daniels, filed a motion for review of said decision, and the Secretary of the Interior recalled and vacated the Departmental decision of June 26, 1906, and the lien applications were returned to the Lakeview office with directions to enter them of record as having been made Feb. 8, 1904, and the officials were also directed to notify all parties who had made entries of the said lands subsequent to the cancellation of the said state selection lists, to show cause within sixty days, why their said entries should not be cancelled for conflict with the lien selections, also to reject all applications for said lands.

July 8, 1907, Archie Johnson filed a motion to intervene and for a review of the last mentioned Departmental decisions which was duly transmitted to the Department.

The said decision, as well as the previous Departmental decisions of May 15 and 18, 1907, having been made, as stated by the acting Secretary, upon an ex parte record, and the utmost latitude having been given that office, in the decision promulgated, to dispose of the claim of those whose interests have been put in jeopardy by the recognition of Daniel's interest, a hearing was deemed necessary in order to ascertain facts in connection with the relinquishments by the state of Oregon, and the making of the lien selections.

This office is directed to order a hearing to take place at such time as will comply with the wishes of the several parties, with ample notice to all concerned, they will be permitted to introduce any testimony which may tend to establish their claim or that will show the invalidity of the lien selections, or Daniel's claim of interest. Notices will be published that opportunity may be afforded each and every party claiming a right to or interest in the lands to be presented at the hearing and assert his claim.

In the instructions to this office attention is invited to the decision of the Department in the case of the California and Oregon Land Company, et al., which is held by the department to be analogous to the lien selections herein mentioned. In that case, the party in interest procured and filed with the selection a relinquishment by the State of Oregon of its right to the land embraced in the lien selection, and the Department held that said relinquishment became effective at the moment of its presentation and that the relinquishment and the application to select were a single transaction. In the cases at bar the lien applications were presented Feb. 8, 1904, but the relinquishments were not filed until Feb. 10, 1904, two days later, and it is charged by the intervenor, that such relinquishments were independent proceeding by the State of Oregon and that Daniel's had nothing whatever to do with the procuring or filing of said relinquishments.

It was further charged by the intervenor that the applications to purchase these lands from the State, its certificates which issued and were purchased by Daniels and the making of the State Indemnity selection lists mentioned, were all incident to and the result of a conspiracy entered into by Daniels and others, with the purpose of defrauding the United States of the title to those lands, and that said Daniels was not "an innocent purchaser", as claimed by him.

The land involved will remain in statu until this office is further advised, and the entrymen have been notified to fully protect their interests they should continue to comply with the law under which their several entries were initiated.

In the case of John Stindt, contestant, vs. Gilbert J. Woodard, homestead claimant, upon which this office rendered dissenting decisions, the commissioner finds:

June 8, 1903, Gilbert J. Woodard made H. E. for certain lands in Secs. 12 and Tp. 30 S. R. 15.

Oct. 7, 1905, John Stindt filed affidavit of contest against said entry charging as follows:

G. J. Woodard has wholly and totally abandoned said entry for more than six months last past and so continues to do; that said Woodard has not lived or resided upon said land for more than six months last past, and does not at this date.

Notice was issued citing the parties to appear for trial. Both parties appeared and submitted testimony.

THANKSGIVING TIME-HONORED.

Custom of First Governors of America Becomes an Established System

To day is a day of Thanksgiving. It is a national holiday, made so by proclamation of the president, adopted after the custom of the governor of the New England States, which precedent was established by Governor Bradford after the first harvest in the New England States in 1621.

President Washington recommended a day of Thanksgiving, and his custom was frequently imitated by subsequent presidents. President Lincoln

issued a proclamation for a national observance of a day of Thanksgiving in 1863, and since that time such a proclamation has been annually issued by succeeding presidents. Later years the old custom of the first governors, of the several states follow the president with issuing a similar proclamation. The last Thursday in November is the day set aside for Thanksgiving, but that is only a matter of fashion, as any other day might be appointed.

With the law and recommended that said entry be cancelled.

May 7, 1907, defendant filed an appeal from the Register's decision, which had been duly served.

The appellant specified as errors, the Register's finding that the land covered by homestead entry was more valuable for timber than for agriculture and in finding the quantity of timber growing thereon. The decision sights that "As there was no allegation in the contest affidavit relative to the character of the land, the finding of the Register is unwarranted, except to show the reason why the entryman could not make a living thereon."

It is only necessary to read the defendant's testimony to ascertain that his home had not been on the land in controversy for more than six months prior to the initiation of this contest. He stated that he established his residence on said land in Dec., 1903, and remained thereon six or seven months.

He commenced driving stage in July, 1905, and visited the land in the fall of 1904 and again in March, 1904. About this time he rented the ranch of John Prader in Summer Lake and sent for his family. They all resided at the place rented, but, in the fall of that year, he again visited the land.

His work on the rented ranch occupied most of his time, but again in May or June, 1906, he went to his homestead and built a barn, also strung a bale of wire around some trees and a few posts making a fence around three acres. This took him about five days, although he stated he

remained on the land about 2 weeks. He started a few feet of ground and planted some garden vegetables, which he left in the ground. His wife was on the land twice and once he took his boys with him. They remained over night but he cannot tell how much longer. He states he had not money sufficient to send for his family until the Spring of 1906, yet it appears that he paid \$425 for a timber claim which he filed on when he made this entry. He stated that his wife borrowed this sum for him on land which he owned.

It further appears that he has mortgaged his timber claim to pay for the furniture, farming utensils, machinery, horses and wagons that he is using on the Prader Ranch, but it does not appear that he has made any effort to reside on and further improve his homestead. He admitted that he was planning to relinquish the same and have his wife file a timber and stone claim for the land when he received notice of this contest."

Register's decision affirmed as stated last week.

L. F. Conn and J. D. Venator were attorneys for Stindt, J. M. Batchelder and C. Umbach represented Woodard.

In the case of Orlando Peterson, contestant, vs. W. W. Check, homesteader, the commissioner finds:

On May 20, 1907, you transmitted the testimony and other papers in the above case, involving homestead entry, made May 25, 1905, for certain lands in Sec 23, Tp. 30, S. R. 15 E.

On October 23, 1906, Orlando Peterson filed his affidavit of contest against said entry, charging that W. W. Check has wholly abandoned said entry for more than six months immediately last past, and has not resided thereon within the six months last past, and that said entryman has failed to reside upon said land at all, absence not due to military service.

Hearing was ordered and parties notified to appear on Jan. 16, 1907, before your office, and personal service made on defendant.

Case was called and contestant filed his motion and affidavit for a continuance to Jan. 25, 1907, which was opposed by contestee, but allowed by your office, and on that day both parties appeared and submitted testimony, from which you found that defendant Check has not complied with the homestead law, and that he has not resided thereon as contemplated by the homestead law, and you recommended that the entry be cancelled.

Contestant Peterson states that he first saw the land on October 3, 1906,

(Continued on Last Page.)

WORK TO BE HAD AT FAIR WAGES

**Men Leaving Large Cities
For the Country.**

FARMERS TO PROFIT BY PANIC.

**The Industrial Slump Will Tend
To Relieve the Wood Famine
In Western Cities.**

For two or three years past it has been impossible to secure labor at wages contractors and business men could afford to pay, and men would not stay with a job. But things have changed, and the change has come suddenly; but four weeks in making. It is said that thousands upon thousands of men are hunting work, and have offered to work at one half the wages paid a month ago. The work is not to be had and train load after train load of idle men are leaving the large cities to look for work in the country. Wood choppers could not be had at any wages a few weeks ago, and western cities where wood is used for fuel, feared a wood famine, because men who could cut wood could get work they would rather do, and refused to cut wood. Now men are shouldering axes and going to the woods in bands. Over in Klamath County it is said not a man has quit work on the government reclamation project or the railroad construction for some time now, fearing, presumably, that they cannot find another job. Conditions are not so bad as they were in 1893, however, as the country is prosperous, big crops everywhere, which is the basis of good times, and as soon as wages get within reach of the farmer's pocketbook and the small business men who are now doing their own bookkeeping will find many jobs at fair wages where they do not exist when wages are out of reach.

Out of Wood.

If this is winter, that monster has caught several people and institutions out of wood. There was talk last week of the school being out of wood, and a possibility of its having to close down as a result. The Odd Fellows are out of wood, although they bought their wood last spring, and have been unable to get any hauled during the summer. Several families are short on wood, and in fact there are but few people that have all they would like to have to start into a winter. It is hardly likely that the people will let the school get out of wood, entirely, and have to close down as a consequence. There should be a rally to the school's assistance before such a serious crisis arrives. The people could have a "hog killing" day and go to the woods and get wood enough in one day to supply the school. It is no time now to sit back and talk about whose fault it is that the school is out of wood. It is true, some one is responsible for the condition, but the people should not allow that fact to hinder the education of their children. There are times for contemplation, but not now; get wood, you can't saw wood with a "hammer."

Warner Irrigation Project.

The Ashland Tidings says that M. Marks and a Mr. L. D. Dollarhide started for Lakeview a few days ago to make arrangements to begin the construction of the canal in Warner Valley, which will take the water from the upper lake onto the desert north of Honey creek. Mr. Marks and Mr. Evans of Ashland, says the Tidings, have been working on the scheme for the past nine months, and now report that recent arrangements have been made to finance the project. There is 200 square miles of the richest kind of soil in the north end of Warner Valley, and it is almost as level as a floor, covered at present with a growth of sagebrush and well set to blue joint grass, or at least a part of it. This land, if watered, will produce any kind of crops; the climate is fine, and there is no drawback to the place, other than the scarcity of water for irrigation purposes. We hope this land will be irrigated and made into homes for the homeless, as it will greatly increase the property valuation of the county.

APPROPRIATE GROUP FOR JAMESTOWN EXPOSITION.



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