

BY TELEGRAPH.

AMERICAN.

WASHINGTON, 28.—The commissioner of the general land office, to-day, rendered his decision in the case of the Southern Pacific Railroad Co., of California, involving an important question as proper interpretation of the Act of July 31st, 1876, which requires the land grant companies, before receiving patents, to pay the cost of survey, selection and conveyancing. Commissioner Williamson holds that this requirement was a new burden or the condition imposed upon the original grant, and that, therefore, it is applicable only to lands earned after the date of the new enactment, and not to any lands earned prior to that date. He also holds, incidentally, that this provision does not apply to any road, in regard to which Congress did not reserve the right to amend the original grant, and that it is not applicable to lands granted to a State to use in its discretion for the encouragement of the construction of railroads.

Commissioner Williamson, of the General Land Office, in fulfillment of instructions, to-day, submitted to the Secretary of the Interior an elaborate report upon the subject of the suspended desert land entries in Visalia districts, concluding with a recommendation that the suspension be wholly removed. General Williamson recites that during the special investigation, conducted by the register and receiver, under the department's instructions, some 20 witnesses were called in behalf of the United States and about 30 for claimant, their testimony making two printed volumes, and the local reports of the land officers were all transmitted. He also transmits a printed volume of *ex parte* affidavits and statements, made by some 180 persons, received and forwarded by the local officers in behalf of the claimants, but as they were not taken in the mode prescribed by the instructions, and were objected to by the government agent. They are not considered to be properly in the case.

Gen. Williamson says: I have carefully examined all the testimony given before the local officers. The examination was commenced with reference to an entry made by Jas. B. Haggin, but soon became general, so as to include all the country where there was a doubt as to its desert character. Each witness was interrogated fully as to his knowledge generally, and of the particular portions, so that investigation was made of all the entries. Much of the testimony was not very perspicuously given and is rambling in manner, yet I think it is the best to be procured, and that it enables us to see the facts and decide the case intelligently as to all tracts involved without sending for further proof. He finds that all the witnesses for the claimants are unanimous in testifying according to their respective knowledge, that all the lands in controversy are incapable of growing any agricultural crop without artificial irrigation. He remarks that some of the witnesses are interested parties, or employed by claimants, and their testimony is accordingly scrutinized, but there is no report that any one is wholly unworthy of belief, and besides these witnesses, there are others, such as A. Stine, Walter James, Doctor McLean, and Messrs. Howdell, Crocker, Lambert and Barker, whom General Williamson characterizes as entirely worthy of credit, who testify that none of the land will produce agricultural crops without artificial irrigation, and that such is the common experience on Kern Island.

Commissioner Williamson next reviews the testimony given by witnesses called in behalf of the United States, and finds that so far as they have a general knowledge of the country, they substantially agree that all the land in Visalia District, outside of the five townships near the new and old Kern River, southeast of Bakersfield, may be considered desert in character. This view is also taken by the attorneys for the government, who have shaded only these townships on the maps forwarded to the department, to indicate which lands are really in controversy.

General Williamson then proceeds to examine, in detail, the testimony given by government witnesses concerning these five townships, and as the result of their admissions, arrived at the following conclusion: With these statistics of rainfall, etc., it is a well-known

fact that the climate is hot, and that the earlier settlers, with a choice of selections, have for years, been compelled, at great expense, to resort to artificial irrigation as almost to exhaust the ordinary supply of water. We are prepared to believe that the few parcels left will certainly refuse any agricultural crop without the aid of water artificially brought to them, and that they are included even in the general description of Kern Island, where the precarious growth of wild grasses is found during some seasons, and which, in my judgment, are not at the best, of sufficient value to be called an agricultural crop, within the meaning of the statute. The desert entries in the five townships, are all made by 21 different persons, and comprise only 2,443 acres in a total of over 115,000 acres. One witness testified that the best and most easily watered lands were taken by the early settlers, and these desert entries are doubtless parcels least desirable for any purpose and most difficult to irrigate.

The commissioner also finds that the low cottonwood and willow clumps, which fringe the sloughs, are not of such a character or amount that any of the tracts entered can be designated as timber lands, the evidence demonstrating that all the lands entered are agricultural in character, though nearly worthless without irrigation.

Commissioner Williamson proceeds: The testimony shows that no one man has nominally claimed to enter more than he is entitled to under the law, but that many have entered adjoining tracts and are jointly irrigating the entire body of land entered. There is no evidence which proves that this is not in good faith, and for the real benefit of all. It seems that low canals are necessary, and many persons desiring to enter land are unable to build a ditch and could not afford to do so, except in common with others. This seems to have been the practice with prior settlers. It seems reasonable and even necessary, that if one man is to have only one section or less, and I think there is nothing in the statute or intention of its makers to prohibit combined enterprises, to make a large district of desert land available. It seems that in this case money has been loaned by one of the parties, Haggin, to others, and a contract made purporting to give him a lien thereon on the lands. In case the certificates are not assignable or the claims inalienable before a patent issues, then the contract for a lien on the land is simply void. I think that the question is not properly before us in the case.

The fact that one man encourages others by loans to make claims under the statute so as to have aid in procuring the water and the right of way, does not make a case, in my judgment, of entering several tracts for his own use, and does not savor of fraud against the government, but simply enables others and himself to enjoy the benefits of the law and accomplish what Congress seems to think desirable, namely, the improvement of land now nearly useless, which would not and could not be done by a single person.

Gen. Williamson notes that some of these entries are in townships where good land, easy of irrigation, had previously been cultivated, and suggests that the original reports which led to this investigation were based upon a hasty and mistaken supposition that all the lands were alike on location and character. His conclusions, after careful examination of the whole matter is, that the entries in question ought not to be cancelled, and he therefore unqualifiedly recommends the removal of their suspension.

MEMPHIS, 28.—The board of health officially reported four deaths from yellow fever during the past 24 hours ending six o'clock to-night. Two additional interments reported by undertakers of parties who died of fever in the suburbs. No new cases are reported.

New Orleans, 28.—Up to six o'clock 4 deaths and 48 cases were reported to the board of health, of which there was only one new case; 47 not heretofore reported. The deaths for the week ending the 27th were 310, of which 177 were yellow fever, and 15 from other fevers.

The Howard Association, to-night, resolved to relieve the volunteer physicians on the 31st of October, and also discharge all the

vehicles engaged on that date, when they will entirely close.

NEW YORK, 29.—The Times Washington special says: A gentleman, who has been conspicuously identified with the Potter committee, states that Tilden will ask to be examined touching the cipher dispatches after the reassembling of the committee, and will court the furthest investigation into his connection with events preceding and succeeding the presidential count. Tilden, it is said, realizes the publication of the cipher dispatches injured his political prospect incalculably, and hence his resolution to submit his conduct to the keenest scrutiny. The same gentleman is also authority for the statement that the Potter committee will enter into an exhaustive investigation of everything concerning the cipher dispatches, and will subpoena Marble, Pelton, Coyle, Woolley, Smith, Weed, and all other persons who can throw any light upon the subject.

A London special says: The air is heavy with rumors of the illness of Lord Beaconsfield, and the cabinet has been summoned to consider what should be done in case of his death. At the last meeting of the cabinet he had a serious apoplectic fit, and the presence of his physician was necessary.

A letter from St. Thomas, dated 22d instant, gives some additional particulars of the recent uprising of negroes on the island of St. Croix. On the outskirts of the town, on every hand, are seen blackened walls and ruins of what were once spacious residences; on every side, too, were patches of burned fields, with here and there patches of green, cane too wet to burn, although the negroes did everything in their power to destroy it, even by throwing kerosene over it. The brutality of the negroes was horrible.

SALEM, Mass., 29.—Michael Arnold's morocco factory was burned; loss, \$26,000.

WASHINGTON, 29.—Of the French relief fund, \$1,000 has been sent to Memphis for the purpose of purchasing clothing and bedding for the yellow fever sufferers. It is likely Secretary Evarts will give another \$1,000 of the fund for the relief of the people in towns near Memphis.

MEMPHIS, Tenn., 29.—The weather has moderated, and a light rain has been falling since early this morning. From six o'clock last night until noon to-day undertakers report orders for seven interments.

The following is a copy of the telegram of the relief committees in the principal cities of the country:

"Memphis, Oct. 29.

"Inland towns that have had yellow fever ask us to assist them in paying the balance they owe. Fifteen thousand dollars will be required. We have barely enough to pay our own debts. If you have any funds on hand subscribed for yellow fever sufferers, if forwarded to us, we will distribute.

(Signed)

"A. D. LANGSTAFF,
President Howard Association."

New Orleans, 29.—Heavy rain this morning. Death, 10; cases reported, 52.

WASHINGTON, 29.—The following is a portion of the text of the communication sent by the Secretary of State to John Welch, our Minister to England, on the subject of the Halifax award, Minister Welch having been instructed to deliver the said letter to Lord Salisbury.

DEPARTMENT OF STATE,

Washington, September 28, 1878.
John Welch, Esq., Etc., Etc.

Sir: I received in due course, your dispatch of August 24th, enclosing Lord Salisbury's reply of the British Government to the representations that had been made to it as early as March last by you under instructions of the department. I must understand Lord Salisbury's notes accompanying the copy of Captain Sullivan's report, which he communicates to this government, adopting that naval officer's conclusion as a fact respecting the violent injuries which our fishing fleet suffered at the hands of the Newfoundland fishing population at Fortune Bay, in January of this year, as an answer which her Majesty's Government makes to the representations laid before it on our part, verified by the sworn statements of numerous respectable witnesses. His lordship has not

placed in our possession, proofs or depositions which form a basis for Captain Sullivan's conclusions, and I am unable, therefore, to say whether, upon their consideration, the view which this government takes of these transactions, upon the sworn statements of our own respectable citizens, would be at all modified. In the absence of these means of correcting any mistakes or false impressions which our informants may have fallen into in their narrative, it is impossible to accept Sullivan's judgment upon the undisclosed evidence as possessing judicial weight. You will, therefore, lay before her majesty's government the desire which this government feels to be able to give due weight to this opposing evidence before insisting upon a very grave view of these injuries, which, at present, it is its unquestionable duty to interests which have suffered from them and its confidence in the competence and sobriety of the proofs in our possession compels this government to take. Should her majesty's government place a copy of the evidence, on which Captain Sullivan bases his report, in your hands, you will lose no time in transmitting it for consideration. I regret that any further delay should thus intervene to prevent an immediate consideration of facts in the matter by the two governments, in the presence of the same evidence with these facts for their scrutiny and judgment. But careful attention to Lord Salisbury's note discovers what must be regarded as an expression of his views, at least of the provincial legislation and administrative jurisdiction over our fishermen within the three mile line, or restrictive limitations upon their rights upon these fishing grounds under the treaty of Washington. Upon any aspect, the evidence on one side or the other, as qualifying the violent acts our fishing fleet has suffered at the hands of the Newfoundland coast fishermen, the views thus intimated seem to this government wholly inadmissible and do not permit the least delay on our part in frankly stating the grounds of our acceptance to them. Sullivan presents the report as justificatory support of the action of the Newfoundland shore fishermen in breaking up the operation of our fishing fleet inside the three mile line, at times covered by these transactions violating certain municipal legislation of the Newfoundland government, which, it is alleged, our fishermen were in the act of committing when the violent interrupting of their industry occurred. I do not stop to point out the serious distinction between the official and judicial execution of any such laws and the orderly enforcement of their penalties, after a solemn trial of right and usage, and a predominant force, or volunteer multitude, driving off our peaceful occupants of these fishing grounds when pursuing their industry under the claim and right secured them by the treaty. I reserve this matter for a complete examination when the conflicting proofs are in my possession. I shall assume, for my present purpose, that the manner of executing this supposed provincial authority was official, judicial and unexceptional. I will state these justifications for the disturbance of our fishing fleet in Captain Sullivan's own language, that I may not even inadvertently impute to Lord Salisbury's apparent adoption of them any greater significance than their very language fairly imparts. Captain Sullivan assigns the following violations of the consolidated statutes of Newfoundland, viz: No person shall haul or take a herring by or in a seine, or other such contrivance, on or near any part of the coast of this colony or its dependencies, or in any bays, harbors or other places therein, at any time between the 20th of October and the 25th of April.

Second.—That American captains were setting and putting out seines and hauling and taking herring on Sunday, the 6th of January, in direct violation of the law relating to coast fisheries, viz: No person shall, between the hours of 12 Saturday night and 12 Sunday night, haul or take any herring, chaplin or squid, with net, seines, bunts or any other such contrivances, for the purpose of hauling or taking.

Third.—That they were barring fish, in direct violation of the same act, "or at any time use a seine or other contrivance for catching or taking herrings, except by way of shooting and forthwith hauling the same."

Fourth.—That, contrary to the terms of the treaty of Washington, in which it is expressly provided that they do not interfere with the rights of private property, or with British fishermen in the peaceable use of any part of said coasts in their occupancy for the same purpose, they were fishing illegally, interfering with the rights of British fishermen and their peaceable use of that part of the coast then occupied by them and of which they were actually in possession, their seines and boats, their huts and land granted by the government being situated thereon. The facts which enter into the offenses imputed under the first, second and third heads of Captain Sullivan's statement and such offenses thus made out, would seem to be the only warrant for his conclusion. Under his fourth head, that the United States fishermen have exceeded their treaty rights, and in the actual prosecution of their fishing were, when interrupted by the force complained of, interfering with the rights of private property or with British fishermen in peaceable use of that part of the coast then being in their occupancy for the same purpose, contrary to the treaty of Washington.

Intelligence from military officers on the Rio Grande represents affairs on the border as more peaceable. The assertion is made that there is a larger number of incursions into Mexico by Indians than by Mexicans into Texas.

Hon. J. A. Williamson, commissioner of the General Land Office, has completed his annual report to the Secretary of the Interior. It shows during the fiscal year ended June 30, 8,686,178 acres of land were disposed of, and 8,041,011 acres were surveyed, in addition to 721,618,748 acres previously surveyed. The total number of acres of public domain still unsurveyed is something over 1,000,000,000. The disposals were mainly as follows: Homestead entries, 4,418,344; timber culture entries, 1,870,434; desert land entries, 310,553; cash entries, 877,555; grants to railroads, 606,340; swamp lands patented, 202,926; other grants to States, 214,932. These figures show a great increase in the quantity of land taken by a class of actual settlers as homesteads and for the purpose of timber culture. The cash receipts amounted to \$2,022,536, being \$569,567 more than the receipts for the preceding year. Commissioner Williamson recommends, in regard to lapsed railroad grants, that Congress should either declare grants forfeited and restore lands to disposal as part of the public domain, or extend the time for the completion of roads. Among other recommendations contained in the report are the following:

For legislation to transfer any title the United States may possess in islands and beds of "meandered" lakes, sloughs and ponds, to States in which they respectively lie; to allow affidavits in pre-emption cases to be taken before judges and clerks of courts of record anywhere in local districts, instead of compelling attendance before registers and receivers; to repeal the townsite law, except as regards applications made under the law previous to its recent amendments; to enable the department to extend prompt relief to parties entering public land, where the title cannot be confirmed, and also in cases where erroneous and illegal exactions have been made, by refunding to them the money paid in error.

The report exhibits in detail the work done in connection with the suppression of timber depredations on public lands, and presents a variety of information with regard to abandoned military and Indian reservations, adjustment of private land claims and miscellaneous matters. In conclusion, the commissioner refers to and earnestly reiterates the former representations made by him regarding the need of an increase of the number of clerks and of the amounts of appropriations for the dispatch of the constantly accumulating business of the land bureau.

LOUISVILLE, Ky., 29.—Quarantine in the southern cities having been raised, the Louisville and Great Southern road has commenced running double daily trains to Little Rock, Memphis, New Orleans and all southern and southeastern points. Hundreds of returning refugees are passing through the city en route here.

INDIANAPOLIS, 30.—At 11 o'clock the members of the Society of the army of Tennessee left their hotels