

lands thus excluded from pre-emption are not occupied for a town. They are included within its limits by the local legislature because likely to be required for such occupancy. And it is this fact and their proximity to the town which give them special value. This very circumstance of their situation brings them into the classes of lands mentioned.

The lands were not, at the time Shields first asserted a pre-emption claim thereto, subject to entry under the act, and the entry which he made was illegal and void.

It is further insisted on behalf of the defendants that they are *bona fide* purchasers, and that they as such are entitled to the protection of the court. I think it pretty clear that some at least of these defendants purchased and paid their money without any knowledge in fact of any defect in the title. Yet they are not *bona fide* purchasers for a valuable consideration without notice in the sense in which the terms are employed in courts of equity. And this is for several reasons.

They all purchased before the issue of the patent. The more meritorious purchased after the entry had been assailed and decided against by the Land Office. But this is a circumstance not material to this consideration. Until the issue of the patent the legal title remained in the United States. Had his entry been valid, Shields would have taken only an equity. His grantees took only an equity. They did not acquire the legal title. And in order to establish in himself the character of a *bona fide* purchaser, so as to be entitled to the protection of chancery, a party must show that, in his purchase and by the conveyance to him he acquired the legal title. If he have but an equity, it is overreached by the better equity of his adversary.

Besides, these defendants were bound to know the law. They were bound to know that these lands were within the limits of the city; and that lands within the limits of a city cannot be pre-empted. Knowing these facts, they knew that Shield's entry was void. They did not purchase without notice.

Again, the defect in the title was a legal defect; it was a radical defect. It was as if no entry had ever been made. By it Shields did not take even an equity. After he had gone through the process of making the entry, after he received the patent certificate, Shields had no more right or title or interest in the land than he had before. And, as he had none, he could convey no interest in the land. By the deed which he made and by the successive deeds which they received, his grantees took no more than he had, which was nothing at all.

In order to the maintenance of this defense, there must subsist an interest which the law approves and will support, and we have shown in this opinion that that never existed.

There must be a decree according to the prayer of the bill.

Decree accordingly.

This opinion, as I have said, confirms the ruling of the Land Department, and may be regarded as the settled law relating to entries made within the incorporate limits of any city. With the law standing thus, not only are homestead and pre-emption entries disallowed therein when the limits of any town site are known to the local land officers, but even where patents in such cases may have, by inadvertence, been issued, no valid title passes. Not only this, but I presume the same must hold where the lands have passed from the patentee into the hands of an innocent, *bona fide* purchaser.

From this brief statement of facts and the law as pertaining thereto, it must be evident to members that legislation is needed to cut down these needlessly and mischievously large city limits, to restrict those which may be created hereafter, and to confirm the titles to those lands which may have been settled upon under the pre-emption and homestead laws, where such settlement does not interfere with any municipal need. This is the object of the bill. It has been framed with care, and its object and also the details of the bill have the approbation of the Commissioner of the General Land Office. I ask that the bill be put on its passage.

The amendments were agreed to.

—Congressional Record.

By Telegraph.

AMERICAN.

LARAMIE CITY, WY., 24.—The sheriff has arrested, and confined in jail here, two women, supposed to be the old woman and Kate Bender, of Kansas murder fame. A description of Kate and Mrs. Bender was sent here by telegraph to-day, from the sheriff of Parsons, Kansas, and exactly answers the description of these prisoners. They are tough cases anyhow, and will be held for further investigation.

WASHINGTON, 24.—In the House, to-day, Blaine made a personal explanation in regard to the newspaper charges connecting him with the Union Pacific Railroad; he declared that every part of the story which connected his name with the transaction was absolutely untrue, without one particle of foundation in fact, and without a tittle of evidence to sustain it. Blaine's speech was delivered very impressively, from written slips, and was listened to with eager attention by every member and person within the crowded hall. As he concluded there was a murmur of applause from both sides of the hall, and one of a group of prominent democratic members having temporary seats near a reporter exclaimed, as he finished his asseveration of innocence—"I believe it, every word of it," to which others replied, "And so do I."

The committee on expenditures in the Treasury department met, to-day, to investigate the charges against Bristow, in relation to the release of the bark *Mary Merritt*. Bristow appeared in his own behalf. Judge Cate, who introduced the resolutions in the House, was called for to furnish the names of the parties who furnished him with the information; he gave H. H. Chittenden, E. E. Johnston, S. E. Welso, Levi Hubbell, G. W. Hazleton and Northrop. He suggested that perhaps it might not be necessary to summon more than one or two of them, as the facts could be obtained from that number as well as all, and the expenses of summoning all of them might be saved. He did not think it necessary to summon Judge Hubbell.

Secretary Bristow said it was late to talk about economy on this matter; he had been arraigned before the country, and he wanted the fullest and most minute investigation, and he desired the attendance of all the witnesses, particularly of Judge Hubbell, as he desired to show under what circumstances Hubbell went out of office. He questioned Cates as to all the sources of his information, and he desired a list of the names of all the persons with whom he had conversed on the subject. Members of the committee having objected to his questions, Bristow said, he had no hesitation in saying that these charges had been instigated by what was known in the country as the whisky ring of Milwaukee, and he interrogated Cate to bring out those facts, and put the information on record. Cate said the committee would try to take care of their side of the case; he himself did not wish to appear as prosecutor.

Secretary Bristow—"But you will do so, you cannot help it."

After further discussion the committee decided to summon all the witnesses named.

Secretary Bristow said that some newspapers had charged that he had declined to furnish the original papers in the case; he wished to state that while in obedience to an executive order he should decline to furnish the original papers in the cases under investigation, yet in every case against himself he would take the responsibility to produce before the committee every original paper. He then gave the committee the following names of witnesses to be summoned—D. Lyman, C. F. Conant, Bluford Wilson, J. H. Robinson, of the Treasury Department, Jno. Freeland, W. L. and S. E. Trice, of Hopkinsville, Ky., and Walter Evans, of Louisville. The committee then adjourned to meet at the call of the chairman.

Belknap's counsel, to-day, filed with Secretary Gorham, Belknap's rejoinder to the replication of the House touching impeachment. A general demurrer is interposed to the first of the two replications, alleging its insufficiency. He denies that he was Secretary of War on the 2nd of March, 1876, and denies that he resigned to escape proceedings of any kind. He did resign

on the understanding with Clymer's committee that nothing further should come of it, and he was not forced to the defense of implicating his wife. He yielded to that suggestion, which was made by Clymer.

Lieut-Commander Johnson, commanding the U. S. naval force on the Rio Grande, telegraphs to the Navy Department that all the reports of forced loans on foreign merchants at New Laredo are untrue.

NEW YORK, 24.—Mathew Richardson, of Albany, was interviewed to-day, and generally confirmed Prender's recent statements of frauds in the national treasury. Richardson says he was offered several offices, doubtless for the purpose of inducing him to keep silent. He was formerly a clerk in Spinner's bureau. In 1865, a package containing \$10,050 was missing, and was never discovered; some time after \$70,000 was diverted from the usual course. He was directed to file a certificate that the entire amount had been destroyed; he refused, but Jones, his chief, made the certificate. The witness told Spinner that the certificate was a lie, and he demanded an investigation, which was refused, not only by Spinner, but by McCulloch, Boutwell and Bristow.

SAN FRANCISCO, 24.—The stock report, to-day, publishes an interview with J. C. Flood, in which he emphatically denies the reports recently circulated, that the Bonanza is petering out, and asserting that the mines never looked better, and would continue to pay dividends right straight along, and that all reports to the contrary are false and malicious.

The *Chronicle*, this morning, continues its exposure of the whiskey ring and of matters at Mare Island. It publishes a letter received by Chas. Werner, a former partner of Jost & Co., in the Antioch distillery recently seized for running the crooked. Werner gave important evidence to the revenue agents, including the books of accounts of the various distilleries with which he had been connected. The letter is as follows:

"SAN FRANCISCO, Jan. 1st, 1876.
Mr. Charles Werner:—The whisky ring will kill you if you appear as a witness; Putzmann will see it done; and they have money plenty to pay for it; they can do it here as well as in any other place, and better. You must take notice of this. Shultz has plenty of money, and it will be a pleasure for him. You know how to take care of yourself. This is to notify you. (Signed.)
"FROM AN OLD FRIEND."

There is other evidence that such threats were made, and the letter is probably genuine. The article states, in continuance, that Werner had been connected in the distilling with several members of the ring, being an experienced practical distiller; that the ring had systematically swindled him, not letting him into their secrets to the extent of participation in the profits, and credits him with the statement that Oulton, a prominent distiller, wielded influence at Washington through Sargent, which information was given him while in business connection with the members of the ring. He says the corruption was outrageous in 1866-7-8-9, during which time the government was defrauded of a million and a half of dollars.

Relative to Mare Island matters, the article charges Isiah Hanscom, chief of the Bureau of Construction and repairs, with conspiring with his son, John Hanscom, and J. E. De La Montagnie, contractors, to defraud the government, in awarding and filling contracts; and that Admiral Rodgers, and naval contractor Geo. W. Much, of Mare Island, were cognizant of at least some of the frauds, several of which are specified.

NEW YORK, 25.—Count Joannes appeared last night as Hamlet, at the Academy. The *Herald* says that Shakespeare was butchered, and one of the noblest works of imagination was turned into a hideous burlesque. Other papers speak similarly.

Barney Williams, the well-known actor, who has been ill for some time, died this afternoon.

FT. LARAMIE, 25.—H. E. Brown died last evening, at a station on Sage Creek; his body will reach here to-day and will be forwarded to Cheyenne to-night.

WASHINGTON, 25.—The following witnesses have been summoned on behalf of the managers, to appear next Thursday and give testimony in the Belknap impeachment—Mr. and Mrs. Caleb P.

Marsh, H. F. Vail, cashier of the Bank of Commerce, N. Y.; E. T. Bartlett, a lawyer of N. Y., and Gen. Geo. A. Custer.

The House committee on territories has agreed to report favorably on the bill for the admission of New Mexico; the only important amendment provides that the election for the adoption of a State constitution shall not be earlier than January, 1877.

The committee on expenditures in the Department of Justice decided to require an answer of ex-Attorney General Ackerman to the question, as to whether he had consulted with the President before paying the money over to Davenport. Ackerman put in a protest against answering on the ground that it was both illegal and was prohibited by statute, and that such communications with the Executive should not be made public. He then testified to a conversation similar to those narrated by ex-Attorney General Williams with the President.

OTTAWA, 25.—The ice in the Lower Ottawa moved to-day, tearing away a storehouse and badly damaging Trown's wharf at Plantagenet; a number of wharves have also been wrecked at different places. The ice is about two feet thick, and it moved with great rapidity.

WELLAND, ONT., 25.—A freight train bound east, on the Canada Southern railway, at 10 o'clock last night, ran into the Welland canal, badly wrecking the engine and eight freight cars; the body of engineer Cady was buried beneath the debris, and has not yet been recovered. Van Houghton, the fireman, was also killed. No other lives were lost. It is supposed that the engineer was asleep and did not observe that the signals were up and the bridge open.

LONDON, 25.—The Hungarian ministry has resigned, but the Emperor of Austria has refused to accept.

A telegram from Athens says the Porte is hesitating on the question of declaring war against Montenegro; the war party is strong in the cabinet. Russia strongly objects. The Porte has asked Egypt for auxiliary troops, so that he can set free the Turkish garrisons of towns in Asia, for service elsewhere. Ten thousand Egyptians are to occupy these places. The troops have not yet assembled at Scutari, Albania. Nothing is ready for immediate hostilities, but great agitation and alarm prevail in Constantinople.

SPRINGFIELD, ILL., 25.—In accordance with a suggestion in a joint resolution recently passed in Congress on the subject, Governor Beveridge, to-day, issued a proclamation urging the people of Illinois to assemble on the coming 4th of July, in their towns and county seats, and there to hear a historical sketch of their town or county, which sketch shall be deposited among the local, State and federal archives, in order to perpetuate and render more accurate the written history of the various localities of this country.

IOWA CITY, IOWA, 25.—At three o'clock this afternoon, Lennie, aged 15, and Cora, aged 13, the son and daughter of the Rev. L. F. Parker, Greek professor in the Iowa State University, were drowned in the Iowa river at this place; they were in a boat with their father and his niece, and were carried over Deitz & Hemmer's mill dam. The professor and his niece were rescued, but the children were lost by the undertow. The professor was crazed by the event and sought to jump back into the stream after he was taken out. The bodies are not yet found.

ST. PAUL, MINN., 25.—To-day, Wm. H. Grant, formerly a lawyer, and Francis X. Brosseau, his former partner, were arrested on a bench warrant from Judge Carter's court, in Washington, on a charge of criminal complicity with one Lippincott, in issuing fraudulent Sioux half breed scrip, whereby the Government was swindled out of a large amount, and many hundred thousand acres of pine lands were entered fraudulently. Grant and Brosseau will be taken to Washington.

SAN FRANCISCO, 25.—A dispatch from San Diego reports that the Mexicans are gathering again across the frontier in the vicinity of Campo, and some fears are entertained of another raid; pickets have been posted.

Dom Pedro and party arrived this evening. At Pleasanton, forty miles from this city, his car was detached from the train and put be-

hind another engine, and rushed over the road half an hour ahead of the overland train; the object was to avoid any demonstration on his arrival, and it was a perfect success. The party passed through Oakland without attracting attention, crossed the bay, and on arriving at the wharf took carriages to the Palace Hotel, where they entered without half a dozen people knowing they had arrived. On the arrival of the regular train at Oakland a great crowd was in attendance, with bands playing and colors flying, while Dom Pedro was already ensconced in apartments at the Palace. Seats had been engaged by telegraph for the party at the Mechanics' Pavilion, to-night, to hear Gilmore's orchestra. On the arrival of the train at Sacramento, Dom Pedro and party hastily examined the workshops of the Central Pacific, expressing regret at the brevity of the inspection. The party will remain in this city four or five days, and will proceed thence to other points of interest.

NEW YORK, 26.—The *World's* Washington special, commenting on Ackerman's testimony, says that if the use of the secret service fund was proper and lawful, it is strange that two attorney generals should require the positive order of the President before they sent a dollar of it through the chief of the detectives to an unscrupulous partisan official for campaign work; and if the money was used properly under the enforcement act, why has it not been accounted for in detail, as required by the last section of that law.

Senator Davis has got on the trail of other startling evidence in the treasury. A certain gentleman asserts his ability to prove that millions were destroyed by the redemption division under Spinner and Boutwell.

The House appropriation committee, to-day, resolved to cut off the letter carrier system of towns having under forty thousand inhabitants; also the transportation of mails to be paid for by space and speed; fast mail trains are unprovided for and consequently must stop.

Jones finished his great speech on the silver question to-day, after speaking six hours in all. He was listened to with remarkable attention by every senator. No speech of this session has attracted such marked interest, and few indeed of any session. Much of its effect was lost owing to the fact that he read from proof slips instead of committing it, and delivering it off hand. Nearly all the senators congratulated him at the close, and for several minutes he received quite an ovation. Sherman, chairman of the finance committee subsequently congratulated him in the open Senate with warm words of praise.

Fish has received a large lot of papers from Steinberger, but no attention will be paid to them, the Government holding that by going off as an adventurer and hiring out to a foreign power Steinberger disfranchises himself, and has not the slightest claim on the Government.

The House committee on territories have adopted Francis's Oklahoma bill, with amendments. The bill simply recommends the organization of a territorial government in Indian Territory.

The *Times*' Washington special says that the evidence before the sub-committee on naval affairs at Philadelphia, shows that J. C. Catell traded on the supposed influence of his brother, ex-Senator Catell, with Robeson; this is the most disagreeable testimony Robeson will have to meet.

TROY, N. Y., 25.—This morning a mob of union mountebanks assailed the boarding houses of the new union men, and four or five of the assailants were badly wounded.

BOSTON, 26.—The Republican State Convention met to-day, and John E. Sanborn was chosen president.

ST. LOUIS, 26.—The United States circuit court this morning, Judge Dillon overruled the motion in arrest of judgment in the *McKesson* case, and sentenced him to two years in the county jail, and to pay a fine of ten thousand dollars. Judge Krumpholtz for a stay of commitment until a petition to Washington, asking for the remission of the imprisonment part of the sentence, could be heard from, and the court granted a stay of two weeks, requiring of the defendant an additional bond of \$20,000.