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MISSION-LANDS.

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MARCH 17, 1876.—Committed to a Committee of the Whole House and ordered to be printed.

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Mr. LANE, from the Committee on the Public Lands, submitted the following

REPORT:

[To accompany bill H. R. 631.]

*The Committee on the Public Lands, to whom was referred this bill, (H. R. 631,) beg leave to make the following report :*

This bill provides for the adjudication and issue of patents in mission-land cases in the State of Oregon and the Territories of Washington, Idaho, and Montana.

The first law upon which these particular mission-lands are founded is embraced in the act organizing the Territory of Oregon, passed August 14, 1848, which is in words as follows, the same being a proviso to the first section of said act :

*And provided, also,* That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, and improvements thereon, be confirmed and established in the several religious societies to which said missionary stations respectively belong.

At that time there were several missionary stations in what is now the State of Oregon; buildings had been erected and improvements made. The services of the missionaries were of great value, and were properly appreciated by the act referred to. Upon the organization of the Territory of Washington, the following provision was made :

*Provided further,* That the title to the land, not exceeding six hundred and forty acres, now occupied as missionary stations among the Indian tribes in said Territory, or that may have been so occupied as missionary stations prior to the passage of the act establishing the territorial government of Oregon, with the improvements thereon, be, and the same is hereby, confirmed to the several religious societies to which said missionary stations severally belong.

These laws unquestionably conferred a title upon missions occupying lands at that time within the limits of said Territory. It certainly conveyed a title as against the United States, but upon examination of these acts it will be found that there is no provision for the issuance of patents. There is title, but, an anomaly in law, no muniment thereof. Can there be a better title than that established by legislative enactment? Why, then, should the ordinary evidence thereof be withheld? Why should there be difficulty in obtaining the same? In the case of a conflict under this law, between the mission claimants and third parties, its imperfections were developed. In an opinion rendered in that case May 27, 1864, (Opinions, vol. xi, p. 47,) Attorney-General Bates thus referred to the matter :

I do not wonder that legal difficulties should arise in attempting to execute an act of Congress so vaguely and incautiously expressed. With this class of land-titles—direct grants by act of Congress, with no provision for after-examination by commissioners or courts—I have been forced to be somewhat familiar. The act of June 13, 1812, (2 Stats., 7, 8,) granted many lots of land to persons inhabiting divers towns in Missouri, upon the single condition of inhabitation, cultivation, or possession prior to December 20 1803, and both the local courts and Supreme Court of the United States have uniformly held that the act itself is a perfect title when the required facts are found by a jury.

Under this act the General-Land Office declined for a long time to issue patents, seeing that the act itself was a perfect title, and that in its terms it did not require a patent to issue.

But the act of December 22, 1854, (10 Stats., 599,) makes it lawful to issue patents upon such statutory grants. This act, however, does not require the issuing of a patent in any case, but only permits it, makes it lawful, and thereby leaves it to the discretionary judgment of your Department. I do not think any Executive Department (not yours nor mine) is the proper judge of a disputed question of this —, and I would decline to assume the jurisdiction by issuing a patent.

A similar bill to this, in fact in the precise words, was before Congress at the last session, No. 3386. The Secretary of War, in a communication to the House, recommended its passage.

It will be observed that this bill only provides for the extinguishment of the title of the United States to these lands in accordance with the acts referred to in the preamble. The rights of third parties or adverse claimants are well protected, being furnished with an easy and simple method of reaching the civil tribunal where their claims may be heard and adjudicated. It also simplifies matters by allowing the bishop or other head of an unincorporated religious society to sue and hold as trustee; and, in fact, the whole bill is so manifestly fair and impartial in its provisions that the committee have no hesitation in reporting it and recommending its passage.