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Heirs of James Sinclair

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IN THE SENATE OF THE UNITED STATES.

JANUARY 15, 1875.—Ordered to be printed.

Mr. KELLY submitted the following

REPORT :

[To accompany bill S. 940.]

The Committee on Public Lands, to whom was referred the bill (S. 940) granting six hundred and forty acres of land to the widow and heirs of James Sinclair, deceased, report as follows :

James Sinclair, a white man, was born in Rupert's Land, British America, in the year 1811, and became a naturalized citizen of the United States, having declared his intention to become such in Saint Paul, Ramsey County, Minnesota, in October, 1849. He was married to Mary Campbell on the 20th day of April, 1848, and, emigrating to Oregon, arrived in that Territory on the 24th day of November, 1850.

About the middle of September, 1855, he settled on a tract of land, containing six hundred and forty acres, in Walla Walla Valley, Washington Territory, particularly described in notification of unsurveyed lands No. 1403, filed in the United States land-office at Vancouver, Wash., on the 30th day of November, 1855.

On this tract of land he erected a dwelling-house and several out-houses, and, with his family, commenced to reside on it some time toward the latter part of September, 1855. During the same month he took with him to his claim between five and six hundred head of cattle and fifteen or twenty head of horses. He resided on the tract of land not more than a month or two, when Indian hostilities commenced in that section of the country, and all the settlers, including Mr. Sinclair and his family, were removed from Walla Walla Valley, by order of Nathan Olney, United States Indian agent, for the purpose of securing their safety from the attacks of the Indians. So hurried was their removal, that Mr. Sinclair's cattle and horses were left behind on his claim, and with the exception of about fifty head of the former, all were killed by the hostile Indians or taken for beef by the Oregon volunteers engaged in suppressing the insurrection. All the buildings on his land-claim were destroyed during that war. On the 29th March, 1856, while on his way to look after his cattle, Mr. Sinclair was killed by the Indians at the Cascades of the Columbia, leaving at the time of his death a widow and three children, who now ask that the title to the land upon which he settled may be confirmed to them.

A year or two after the death of Mr. Sinclair, the military post of Fort Walla Walla was established four or five miles from where his land-claim was located, and at the same time the Sinclair claim was selected and taken as a timber reservation, for the purpose of supplying the military post with timber and fuel. The timber was cut off and used

by the United States troops long ago, and the land is now useless as a military reservation; and for this reason it was transferred to the control of the Secretary of the Interior, and authorized to be sold by virtue of two acts of Congress, approved February 24, 1871, and June 5, 1872.

The fourth section of the act of Congress approved September 27, 1850, commonly known as the Oregon donation-land law, is as follows:

And be it further enacted, That there shall be, and hereby is, granted to every white settler or occupant of the public lands, American half-breed Indians included, above the age of eighteen years, being citizens of the United States, or having made a declaration according to law of his intention to become a citizen, or who shall make such declaration on or before the 1st day of December, 1851, now residing in said Territory, or who shall become a resident thereof on or before the 1st day of December, 1850, and who shall have resided upon and cultivated the same for four consecutive years, and shall otherwise conform to the provisions of this act, the quantity of one half-section or three hundred and twenty acres of land, if a single man; and if a married man, or if he shall become married within one year from the 1st day of December, 1850, the quantity of one section or six hundred and forty acres, one half to himself and the other half to his wife, to be held in her own right; and the surveyor-general shall designate the part inuring to the husband and that to the wife, and enter the same on the records of his office.

The eighth section of the same act is as follows:

That upon the death of any settler, before the expiration of the four years' continued possession required by this act, all the rights of the deceased under this act shall descend to the heirs at law of such settler, including the widow, where one is left, in equal parts; and proof of the compliance with the conditions of this act up to the time of the death of such settler shall be sufficient to entitle them to the patent.

The notification No. 1403, dated the 9th day of November, 1855, and filed by James Sinclair in the United States land-office at Vancouver on the 30th day of the same month, and certified as correct by William Stephens, the register of the land-office at Walla Walla, is in due form of law. A copy of this notification is hereto annexed, marked A. The residence of Mr. Sinclair on the tract of land claimed by him is proven by the testimony of John Moar, George Taylor, H. M. Chase, James Boyes, Andrew D. Pamburn, William McBean, and others. The fact that the Sinclair claim was the same as that taken and occupied as a timber reservation by the United States military authorities is established by the testimony of John Moar, James Boyes, H. M. Chase, Mrs. Mary Sinclair, and others. It is also known, as a part of the history of that country, that the Walla Walla timber reservation was located upon the land-claim of James Sinclair, deceased.

The death of Mr. Sinclair, on the 29th day of March, 1856, is also proved by a number of witnesses, having been killed on that day by hostile Indians at the Cascades of the Columbia.

All these facts being proven by clear and indisputable testimony, there can be no doubt that by virtue of the 8th section of the act of September 27, 1850, the title to the land embraced in his notification became perfected in his heirs at law and his widow, Mary Sinclair.

The United States surveys of the public lands were not extended over that section of the country until after the location of the timber reservation by the military officers. As soon, however, as they were made, or shortly afterward, Mrs. Mary Sinclair made an effort in the United States land-office in Washington Territory to establish the title of the widow and heirs of James Sinclair to the land embraced within the limits of his notification. The register and receiver of the land office, however, declined to receive her proofs, because the claim was included within the boundaries of the military reserve. After the passage of the act of Congress of February 24, 1871, authorizing the transfer of the Walla Walla reservation to the control of the Secretary of the In-

terior, to be sold, Mrs. Sinclair again made an effort to establish the title of herself and children to the land in question, and again the register and receiver of the United States land-office at Walla Walla declined to receive her evidence of title, for the reason that the act of Congress referred to directed the Secretary of the Interior to sell the land embraced in the military reservation to the highest bidder, at not less than one dollar and twenty-five cents per acre.

Inasmuch as it appears that the widow and heirs of Mr. Sinclair have done all they could to assert their rights in the premises, and those rights appear to be unquestioned and unquestionable to the land embraced in his notification, the committee recommend that the land included in what is known as the military timber reservation at Walla Walla, $641\frac{64}{100}$ acres, be granted to the widow and heirs of James Sinclair, as set forth in Senate bill 940.

A.

No. 1403.]

[Received November 30, 1855.]

TERRITORY OF WASHINGTON.

NOTIFICATION.

To the register and receiver of Washington Territory of settlement on public lands not yet surveyed :

Pursuant to the act of Congress approved on the 14th day of February, 1853, entitled "An act to amend an act entitled 'An act to create the office of surveyor-general of the public lands in Oregon, and to provide for the survey and make donations to settlers of the said public lands,' and the amendments thereto,

I, James Sinclair, of Walla Walla County, in the Territory of Washington, hereby give notice of my claim to a donation of 640 acres of land, particularly bounded and described as follows: Beginning at the southwest corner at a stake branded J. S.; thence running due north four hundred and eighty rods to a stake; thence due west two hundred and forty rods to a stake; thence due south four hundred and eighty rods to a stake; thence two hundred and forty rods to the place of beginning.

(Signed)

JAMES SINCLAIR.

[Diagram.]

Affidavit of settlers on unsurveyed lands claiming under the fourth section of act of 27th September, 1850, and the amendments thereto.

James Sinclair, of Walla Walla County, in the Territory of Washington, being first duly sworn, says that he is a white settler on the public lands in said Territory, and that he arrived in Oregon on the 24th day of November, 1850; that he is a naturalized citizen of the United States, having declared his intention of becoming such in October, 1849, in Saint Paul, Ramsey County, Minnesota Territory; and that he was born in Rupert's Land in the year 1811; that he has personally resided upon and cultivated that part of the public land in the Territory aforesaid and particularly described in the annexed notification to the register and receiver of said Territory continuously from the 15th day of September, 1855, to the 17th day of October, 1855. And he further says that he is intermarried with Mary Campbell, his wife, and that he was legally married to her on the 20th day of April, 1848, in Red River Settlement in Rupert's Land.

(Signed)

JAMES SINCLAIR.

Subscribed and sworn to before me this day of ninth day of Novr., 1855, in The Dalles, Wasco County, O. T.

J. A. SIMMS,
Clerk of the District Court of Wasco County, O. T.

Proof of commencement of residence and cultivation on land not yet surveyed.

John Moar, of Walla Walla County, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation

right by James Sinclair, and particularly described in the annexed notification to the register and receiver of Washington Territory; that he is personally acquainted with said James Sinclair, and knows that he has personally resided upon and cultivated said tract of land continuously from the 15th day of September, 1855, to the 17th day of October, 1855.

(Signed)

Subscribed and sworn to before me this day of 9th Novr., 1855.

JOHN MOAR.

J. A. SIMMS,

Clerk of the District Court, Wasco Co., O. T.

Charles Ogden, of Walla Walla County, in the Territory of Washington, being first duly sworn, says that he is in no way interested in the tract of land claimed as a donation right by James Sinclair, and particularly described in the annexed notification to the register and receiver of Washington Territory; that he is personally acquainted with said James Sinclair, and knows that he has personally resided upon and cultivated said tract of land continuously from the 15th day of September, 1855, to the 17th day of October, 1855.

(Signed)

Subscribed and sworn to before me this day of 9th Novr., 1855.

CHARLES OGDEN.

J. A. SIMMS,

Clerk of the District Court of Wasco County, O. T.

Affidavit of witness claiming unsurveyed lands as a married man.

John Moar, of Walla Walla County, in the Territory of Washington, being first duly sworn, says that he is personally acquainted with James Sinclair, the person who claims a donation right to the tract of land described in the annexed notification to the register and receiver of said Territory, and Mary Campbell, his wife; that he has known them to live together as man and wife from the 20th day of April, 1848, to the 9th day of November, 1855, and that they are and were reputed by their neighbors as such during said period.

(Signed)

JOHN MOAR.

Subscribed and sworn to before me this day of 9th Novr., 1855, in The Dalles Wasco County.

J. A. SIMMS,

Clerk of the District Court of Wasco County, O. T.

[Indorsements.]

Notification of settlers on unsurveyed lands.

No. 1403.

Dated Nov. 9, 1855.

Filed Nov. 30, 1855.

LAND-OFFICE, WALLA WALLA, W. T., July 19, 1871.

I hereby certify that the foregoing is a true copy of the notification of James Sinclair for a donation claim now on file in my office.

WM. STEPHENS,
Register.