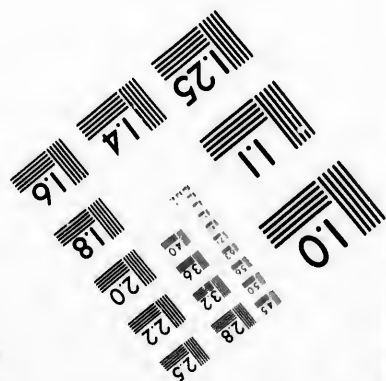
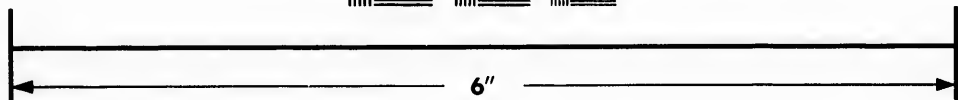
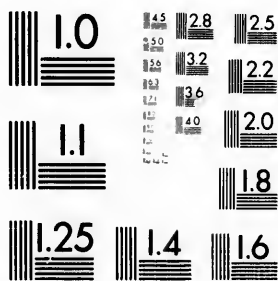


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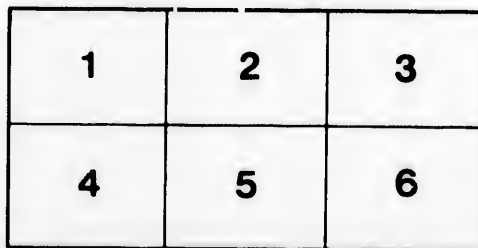
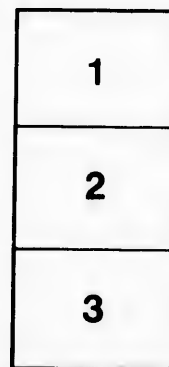
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DECISION AGAINST THE ST. JAMES' MISSION CLAIM AT
VANCOUVER—ITS APPRECIATION.

WE reprint, at the request of Bishop Blanchet, the following article on this subject, taken from the *Catholic Sentinel* of May 25. For a further exposition of the attitude assumed by the government towards our struggling missionary church in that region, we refer the reader to the February (1872) number of this magazine:

Editor Catholic Sentinel:

The case of the St. James' Mission Claim, which for the last twelve years has been pending in the office of the General Land Department, and that of the Secretary of the Interior, has at last been taken into consideration, and decided, as reported a few weeks since. To Hon. W. H. Smith, Assistant Attorney-General, was given the commission to examine the case and give his opinion. He did so in a document dated January 29 last.

In his report, transmitted to the Department of the Interior, we see that he had to solve these two questions:

1. Who are included within the

proviso of the first section of the act of Congress of the 14th of August, 1848, which proviso is in the following language: "That the title to land, not exceeding 640 acres, now occupied as missionary stations among the Indian tribes in said Territory (Oregon Ty.), together with the improvements thereon, be confirmed and established in the several religious societies to which such missionary stations respectively belong"?

2. What is confirmed by said proviso to missionary stations?

The hon gentleman, after an attentive examination of the first question, says: "I am of opinion that the proviso of the first section of the act of 1848 conferred an immediate title right upon all the societies then within its provisions. Here is a confirmation of title immediately operating *proprio vigore* for the benefit of all who should at that date be within its provisions."

For the construction of the law he refers to the opinion of Attorney-General Bates, May 27, 1864, of Secretary Harlan, and the Commis-

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sioner of the General Land Office in his instructions to the Surveyor-General, which opinion has never been anywhere seriously questioned. His final conclusion is: "I am satisfied that on the 14th of August, 1848, there was existing a missionary station of St. James."

This opinion is so well established by the documentary evidence and the opinion of the gentlemen above quoted that there cannot reasonably be the least doubt in the mind of any candid man as to the existence of the St. James' Mission on the 14th of August, 1848—a fact acknowledged by all, irrespective of party or creed.

Let us now come to the second question, about what is confirmed by the proviso.

Here the hon. gentleman experiences some uneasiness in regard to the words *land now occupied* of the proviso. He knows not exactly what they mean. He is not ready to say whether in *every case* "all the land claimed ought to have been enclosed, cultivated, built upon, or the like." Then he speaks of "stakes or other marks," and says that "for the liberal purposes of the proviso (?) he would give the language the most liberal construction, but knows of no rule so liberal as to hold *land occupied* which has never been included in any inclosure, etc." (He had a little before said he was not ready to require in every case enclosure of the land; it is only a trifling contradiction!) Why should he be so troubled about "enclosure, stakes, etc.?" Had he not before his eyes the following rules, given by the Commissioner of the General Land Office to the Surveyor-General in 1853, to direct him?

"1. Such provision is understood to grant 640 acres to each separate and distinct missionary station referred to.

"2. In order to comply with the terms of the grants, . . . it will become necessary to cause to be made a special survey of a square mile, which *shall include the land occupied* with the buildings, and improvements in the centre, as nearly as may be."

These rules are undoubtedly plain and clear, and no candid man can deny that the intentions of Congress in granting 640 acres to each missionary station were as well, if not better, known to the commissioner in 1853, as they can now be known after twenty years. He knew that it was not as an alms, but in consideration of the services rendered by the missionaries in laboring to civilize and christianize the Indians, that the grant was made by Congress. The same view has been invariably taken by all his successors in office, by all the occupants of the Department of the Interior, and all the Attorney-Generals from 1853 to 1872. Accordingly, all cases of missionary stations have been settled whether they were fenced or not. The Methodist Mission at the Dalles in Oregon, received from the government \$20,000 for a portion of its claim, which was not fenced in 1849, and had never been before. The title of the Presbyterian Mission at Walla Walla, and many others which were in the same condition, were readily acknowledged and granted. Should not all these incontrovertible facts have convinced the Hon. Assistant Attorney of the true meaning of the words "the land now occupied"? But they did not.

Yet notwithstanding his apparent disposition "for the charitable purpose of the proviso to give the language the most liberal construction," he cannot go so far as went all the secretaries, the attorney-generals, and the commissioner, in office dur-

ing the course of the twenty previous years. He seems to have been sent to teach them that they all have erred in the interpretation they have given to the proviso, and accordingly he sets himself up as a reformer. Therefore, grounded on his far superior legal acquirements, he hesitates not to say: "I am unable to see how Commissioner Wilson reached the conclusion in his instructions to the Surveyor-General. It is in my opinion an erroneous construction of the proviso." The Hon. Mr. Wilson, as well as all the other hon. gentlemen who approved his construction, will no doubt be much flattered by the compliment.

The Hon. Assistant Attorney-General continues: "On the 14th day of August, 1848, the mission of St. James was in *actual possession* of a small piece of land upon which had been erected a church, in which the priests there stationed held religious worship. The mission at that date had never asserted any claim whatever" (would the Hudson Bay Company, wrongfully claiming possessory rights to the land, have allowed it?) "had no enclosure, and was therefore only in occupancy of the land covered by the church edifice, and such land as was appendant to it. This it occupied in my opinion as a missionary station among the Indians. The society to which said mission belongs has therefore a vested title in the land upon which the church edifice extends, and as much appurtenant thereto as at the passage of the act was within the enclosure or used for church purposes."

Such, therefore, has been the generosity of the Congress of the United States, in his opinion!

As an acknowledgment of the previous efforts of the missionaries to civilize and christianize the Indians,

Congress grants the land covered by the church, and a few feet more. What wonderful liberality! *Obstupescite coeli super hoc!*

This opinion has been submitted to the Hon. Attorney-General Williams, although he has an interest in a portion of the claim. He has written a letter on the subject which may be considered as approving it, from the fact that the Hon. Mr. Cowen, acting Secretary, has declared that he himself concurs in the opinion of the Hon. Mr. Smith. The legists will here please remember that the old axiom, *favores sunt ampliandi*, is no longer in fashion! Hereafter they must say: *Favores sunt restringendi*; and, *odiosa amplianda*, as in the present case.

By such a decision, if it could stand, the first Catholic mission established among the Indians in Washington Territory, the mission which before 1848 incontestably labored more than any other for the civilization of the Indians, would have only a few feet of land, while all other similar missions have received 640 acres, and one \$20,000 for the land occupied by the government for a military post. Why such glaring partiality in the administration? There cannot be any other reason for such a decision but that the land claimed is considered as of too great a value, and that some military officers but already too well known here covet the land in whole or in part. There is no doubt that by their influence they have been in a great measure the cause of this long procrastination on the part of the government in the past, and have in the present contributed their share in the rendering of the foregoing adverse decision.

We have now, Mr. Editor, given a true report of the decision and the ground upon which it is founded

We therefore present it to an enlightened public in order that it may form its opinion upon the merits and demerits of the case, and that it may know that all the religious societies do not stand on the same footing of equality in the eyes of the liberal

government of the United States in the year of grace 1872.

A CATHOLIC.

VANCOUVER, W. T., May 23,

Papers whose motto is "equal justice to all" are requested to reproduce the above.

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