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MAUI CASE IS SETTLED

One May not Cross Another's Property Merely Because There Is No Road.

In the case of Manuel Nunes Calaca against Antonio Marks Caldeira, the Supreme Court upheld the Second Circuit Court's decision yesterday. The court says that the Commissioner of Private Ways and Water Rights must decide in accordance with vested rights. He cannot grant a way over another's property merely because he thinks the party desiring it ought to have it. A way of necessity may be implied from a grant. It cannot arise in favor of or against a stranger merely because of necessity. Judge Frear, in the decision of the Supreme Court, says:

This case comes here on exceptions from the Circuit Court, to which it went on appeal from the Commissioner of Private Ways and Water Rights for the District of Makawao, Island of Maui. There are three lots through or near which a Government road runs. Lot 1 is owned by the plaintiff. Lot 2 was formerly owned by a third person, who sold to the plaintiff a right of way over it to lot 1 from the road as then located, and afterwards sold lot 2 itself to the defendant, who also owns lot 3, which he obtained from another person who owned it at the time the right of way over lot 2 was granted. The road has now been changed so as to run through lot 3 about 100 or 150 feet distant from the point at which the way over lot 2 joined the old road. This section is brought to secure a continuation of this way over lot 3 to the present road.

Apparently the Commissioner and the Circuit Judge each thought that he was to have the right of way. The Commissioner held that he ought, because it would be inconvenient to get from his lot to the road by another way. The Circuit Judge held that he ought not, because he could get out by the other way and it would make the Government road dangerous if he should be allowed to get out by the proposed way—on account of the grading that would be required. Counsel in this court objected that the Circuit Judge so decided from his personal view of the locality and that he ought not to have done so because the case was submitted to him on the evidence taken before the Commissioner, and contended affirmatively that the way should be allowed as a way of necessity.

THE FOOD OF CHINA

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Authorities differ as to how urgent the necessity must be in order to give rise to a way of necessity, but this is not a case in which such a way can be implied at all, however urgent the necessity. A way of necessity may be implied from a grant in favor of either the grantor or the grantee, and cannot be implied in favor of or against a stranger to the grant. One cannot take the property of another against his will for his own private use even for compensation, however much he may need it. Neither the Commissioner nor the Judge could lawfully appropriate the defendant's private property to the use of the plaintiff. The statute recognizes this by requiring that the decision shall be in conformity with vested rights and shall be just and equitable between the parties—the defendant as well as the plaintiff.

Whether the plaintiff had any right to continue the use of the old Government road as a public road from the end of his way to the new road, does not appear. It was assumed in the lower courts that he had not, but that the old roadbed was the defendant's private property. The decision of the Circuit Judge cannot be reversed because he gave wrong reasons, provided he came to a correct conclusion. It cannot be reversed in this case as being contrary to the law and the evidence, which is the only ground upon which it was expected.

ON THE MISSISSIPPI

Fifty years ago a Mississippi river steamer of the name of Bon Accord, Captain De Haven, plied between Galena and St. Louis, carrying pig lead on her down trip and bringing back among other things green hides for a tanner of the name of Jesse Grant, whose son afterwards became known, recalls Victor Smith, in the New York Press. She was originally a lower river boat as her name and that of her captain would imply. The third pilot's name was Clemens, a roysterous, boisterous sort of fellow, much given to dance and song, and the only person on board who could jump up and crack his heels together three times before coming down. When his turn at the wheel was ended he would come out on the deck singing:

Wheel about and turn about and do just so,
And every time you wheel about you jump Jim Crow.

He accompanied the song with a furious jig, and at the end sprang into the air, struck his heels together three times and came down with a concussion that shook the whole forward end of the upper deck. The captain, who was often on the deck below, would shake his finger at song-and-dancer and say: "Young man, if you do that again I will throw you overboard." "If he does he will have to upset the boat," or "The captain has no idea of ruining a good suit of clothes by any such foolishness." The captain was a blond, thirty years old, as handsome as a picture, and a good deal of an athlete, as was Clemens, who was much younger. This third pilot afterwards took to writing, which brought him some money, but a rich wife brought him more. The universe knows him today as Mark Twain.

CHINA'S BIG BREAD BASKET.

One of the big bread baskets of the Chinese empire is the great plain which extends north of the Yangtze. There are hundreds of miles of this region which are covered with wheat. The plain from north to south is as long as from New York to Cleveland. It is almost as wide as from New York to Pittsburg, and a great part of it contains good wheat soil. Much of the land is too high for irrigation, but the soil is so rich that in ordinary seasons it produces good crops.

I had a chat the other day with Capt. W. W. Rich, the foreign adviser to Sheng, the head of the Chinese imperial railways. Capt. Rich has traveled over most of the empire, surveying railroads and reporting on mines and other matters for Sheng. He is from Minneapolis, and ought to know wheat when he sees it. Said he:

"The wheat fields of the great Chinese plains remind me of the bonanza farms of the Dakotas. They extend on and on for miles. There are no fences and no barbed-wire but wheat! wheat! wheat! Here and there is a clump of trees. Each of the tree-clumps marks a Chinese village, ranging in size from a few houses up to hundreds. The farmers live in the villages and go out from them to their work. The land is owned in small patches, but to the stranger it has no visible boundaries."

"Is the country thickly populated?" "Yes," replied Capt. Rich. "Much more thickly than I supposed at first. I was surprised at the number of people in a village. The families are large, and you find eight or ten persons in one house. Nearly every village belongs to a clan or family. It has its head men, who act as their governors, and who are well posted on all matters connected with their localities. I talked with many of these old men. They told me that it took all the wheat they could raise to feed the local population. They could not give me any encouragement as to export. You see, I was looking up freight for a possible railroad. I asked them what they did when they had a big crop. They answered that they stored it in public granaries against the times of famine."

HOW THE CHINESE CULTIVATE WHEAT.

During a house-boat trip up the Yangtze valley I passed through a wheat region, not as large as that of the great plain, but big enough to show me something of Chinese wheat culture. The wheat is in small patches

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It is cultivated in a way that would surprise our bonanza farmers. The grain is first sowed in seed beds and the stalks transplanted, plant by plant, like rice. The stalks are set out in rows about six inches apart, in little bunches of five or six stalks. The crop is kept free from weeds. It is hoed and sprinkled with liquid manure.

In the larger wheat regions which Captain Rich saw the wheat is sown with rude drills which drop three rows at a time. The crop is hoed and scientifically cultivated, although the plowing is very shallow.

A BIG CHANCE FOR AMERICAN CORN.

Uncle Sam should profit by the approaching famine to introduce American corn. The beggars will be legion, and thousands will starve. Ship loads of corn might be sent and the food thus introduced. Sooner or later China will be our greatest corn market. When the Nicaragua canal is completed the chief fleet of the Pacific will be the corn fleet. Hundreds of steamers will then carry Indian corn from the Mississippi valley to the countless millions on the opposite side of the Pacific. Asia has more than a half billion people who want the cheapest food that will sustain life.

There is no cereal that has as much nutriment as corn. It is better and cheaper than wheat, rice, or any other, and we can raise enough to supply the world. Our corn crop is our biggest crop. We raise about two billion bushels every year, and even as things now

are this has a value almost double that of the wheat crop. With the increased demand from Asia it will be worth much more and the area can be so increased that we can feed the world. At present about three-fourths of our corn is consumed in the United States, while about half our wheat is exported. In the future there will be as great a demand for corn as for wheat.

FAMINE AN OPENING WEDGE.

The coming famine should be the opening wedge. There will be a great demand for cheap bread stuffs, and if corn can be sent out at a low price it can be sold. A large amount could be given away at a profit. The cooks here are organized into a trades union or guild. If a few of these cooks were taught how to prepare the product for the public restaurants, the food might soon become popular. It could be also given out through the famine kitchens and charitable restaurants, which at such times are often established by the Chinese, and in this way might get a foothold which would be permanent.

So far our people have not appreciated this market. Some of the Chinese have tried to get corn and failed. It was only last year that one of them, according to John Fowler, the United States Consul at Chefoo, sent an order to the United States for 50,000 bushels of our corn. He offered to pay \$75,000 dollars in gold for it provided it was delivered in ten weeks, but notwithstanding this, Consul Fowler could not find an American who would take the order. He cabled the offer to the State Department at Washington, but got no reply. Either the State Department could not find an American who cared to sell 50,000 bushels of corn at \$1.25 a bushel, or what is more likely, it did not think the matter worth notice. In

closing his report to the department Consul Fowler said:

"It seemed no one wanted to sell corn, yet this offer was for fifteen hundred tons, and if carried through it would have opened up a market of twenty-nine million people who subsist on this article of diet entirely."

Consul Fowler says that the people of Shantung know all about corn. They raise a great deal, but there was a failure of crops last year and the present crop is short. Chinese shelled corn in 1899 was one-third rubbish, and still it was bringing enough to lead to this offer of \$1.25 a bushel for fifteen hundred tons of an article the merchants had not seen. Two other large orders were received at the same time, and that part of China was apparently ready for American corn. The State Department and the Agricultural Department should certainly look into the present situation and our American shipping may be able to work it at a profit.

The matter is not a small one. If the foreign demand for corn should be great as to raise the price 5 cents a bushel it would increase the annual value of the corn crop of the United States by the enormous amount of \$200,000,000.

An attempt was made a few years ago to introduce our corn in Europe, but failed largely through the prejudice of the Germans and others against the change of diet. There will be no such prejudice in China. The Chinese people will eat anything that will sustain life.

FRANK G. CARPENTER.

The Count de Castellane is said to contemplate a conference with his brother-in-law, and will go to New York to meet him.