

Opinion of the Court.

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independent defenses, and, being so, the latter comes within the rule announced. Of course, if the act of Congress of 1875 was a grant of the right of way *in presenti*, "conveying a good title when the road was completed," as contended, it needs no aid from the statute of limitations and would be an effectual defense if it were not barred by the judgment which we have considered.

Judgment affirmed.

NORTHERN PACIFIC RAILWAY COMPANY *v.* SLAGHT.

ERROR TO THE SUPREME COURT OF THE STATE OF WASHINGTON.

No. 153. Submitted January 11, 1907.—Decided March 11, 1907.

Decided on authority of *Northern Pacific Railway Co. v. Slaght*, *ante*, p. 122.

Mr. Charles W. Bunn, with whom *Mr. James B. Kerr* was on the brief, for plaintiff in error.¹

No counsel appeared for defendant in error.¹

MR. JUSTICE MCKENNA delivered the opinion of the court.

THIS case was submitted with No. 152, the questions being identical. On the authority of that case the

Judgment is affirmed.

MR. JUSTICE BREWER took no part in the decision of these cases.

¹ See abstracts of arguments in *Northern Pacific Railway Company v. Slaght*, *ante*, p. 122, argued simultaneously herewith.