

# Crook County Journal.

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NO. 15

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### WANT SIX MILE LIMIT

#### Cattlemen are Anxious for Plenty Of Room

It is probable that if the Blue Mountain withdrawal becomes permanent and is set aside in a forest reserve, there will be a six mile limit attached to it for stock purposes. Reports will be made to induce the Interior Department to give this amount of room for the stock interests and Judge Biggs, who recently left for the East will go to Washington in the interest of the cattlemen who favor the withdrawal.

The move is in accordance with the rules governing the Cascade reserve with the exception that the limit will be doubled. The Cascade reserve is surrounded with a three mile area for use only by the stockmen in adjacent districts, and it is proposed to extend this limit an additional three miles if possible when the Blue Mountain reserve is set aside. The proposition is to be approved on the part of the stockmen interested and especially by the cattle growers who use the area within the withdrawal for summer range. It is expected that an order will soon be issued making permanent the reserve and the stock interests are working hard to secure the more extended limit.

### HALF THE TAXES COLLECTED

Sheriff's Office Makes a Good Record During First 15 Days in March.

During the first 15 days in March, or to the date when the rebate on the payment of taxes closed, the sheriff's office collected \$30,507, over half the amount of the total assessment. Six hundred of the 1300 tax payers in the county had paid either all or part of their taxes and many more collections have been made during the past week. Some of the heaviest tax payers, however, have not as yet paid in, but in the opinion of the sheriff a greater part of this will have been paid by the first of April at which time it is expected that fully \$45,000 will be on hand leaving a balance of only \$15,000 to be collected.

After today there will be but 11 more days before all personal property will be under the ban of the delinquent list. The law requires taxes on personal property to be paid not later than the first Monday in April, which falls this year on the 4th. After that time penalties will be attached. Taxes on real property must be in the hands of the sheriff not later than the first Monday in October and that date is the 3rd.

A large number of both real and personal property holders have paid in half of their taxes, a fact which relieves them of the burden of paying a penalty and extends their time for the balance of the payments until fall.

### BEND AGAIN A POSTOFFICE

Department Issues Order Creating Office on the Deschutes—A. H. Grant Postmaster.

A new postoffice of Bend has been ordered established here, with Alfred H. Grant as postmaster. The appointment dates from March 7, though it will take some time to complete the necessary formalities and get the new postoffice actually in running order. The board of the new postmaster with A. M. Drake and J. S. Hunter as sureties in the sum of \$1000 went forward to Washington yesterday, says the Bend Bulletin.

The new office will have full money order facilities, thus supplying a long felt want at this point. It will be located at the store of the Bend Mercantile Company. Bend the historic name of this

locality, was also the name of the postoffice until about a year ago, when an order to change the name to Deschutes was worked through in the interest of a town plat of that name then filed. Since then there have been two or three efforts to have Bend postoffice established at the Bend townsite, as more central for the community, but not until the investigation by Post-office Inspector Riches last January did any success attend those efforts.

At first it was proposed to have for the new Bend postoffice only the regular mail service of this route—tri-weekly mail. But those interested in preventing the establishment of the new office would not certify to the facts as to mail route and service and now it is understood that the new Bend office will have a daily service from Prineville.

### WOOL GROWERS IN SESSION

Hold Meeting at Antelope and Discuss Shearing Prices and Forest Reserves.

The Antelope Wool Growers' association held a meeting at Antelope the last of the week at which a large number of sheepmen from the surrounding country was present.

Among other matters discussed was the matter of a public sales day for wool at Shaniko, June 2-3 being recommended by the association for the first sales day. This matter will be settled by the State Executive Committee, but the recommendation of the local association will be carried out if possible.

A committee was appointed to confer with the Crook County cattlemen relative to the making of lines in the Blue mountains. This committee consists of Duncan Chisholm, Pat Radigan, Murdo Finlayson and Joe Bannon.

A committee was also appointed to arrange with sheep-shearers for prices of shearing this season. Six cents for stock sheep and seven cents for wethers two years old and upwards was recommended as a proper price.

The wool-growers organization is now in a most flourishing condition, and with a few exceptions, all of the stockmen of northern Crook and southern Wasco counties are members.

### LARGE FORCE ON DITCHES

Deschutes Irrigation Company Is Pushing the Work on Their Canal Lines at Bend.

Additional forces of men have been added to the present large crew at work on the Deschutes Irrigation company's canal lines and more will be put to work this week. The lower ditch crew is at work nine miles north of Bend and construction is progressing rapidly from the mouth of the flume to the townsite of Bend. During the past week work on the canals has been carried on below the Bend and the old county road has been vacated. The ditch line occupies the narrow pass for two miles north of Bend and the road has now been swung over to the east side of the ditch. The lower camp is near Long Butte where considerable rock work is being done. It is expected that within a few weeks ten miles of the ditch will have been completed making a continuous canal from the end of the flume to a point some distance below the Butte. North of the latter point the ground is such as will permit of easy and rapid construction.

Over 200 telephone poles have been cut for the line which will be erected along the canals and the work of delivering them began this week. An order has been placed for 27 miles of wire and it is expected that telephone communication will be established between the working points along the canal lines in a few weeks time.

### SOME TIMBER FACTS

#### Supreme Court Decisions On Rights Of Claimants.

There has been considerable controversy and difference of opinion relative to the timber and stone act as to the meaning of the word "speculation" as embodied in the said act, and many proofs had been held up in this state as well as other states, by special agents of the general land office, but the decision of the secretary of the interior in the case of Annie M. Donahue et al, from the Eureka, Cal., land district, as delivered on December 10, 1903, and now published in the advance sheets of the land decisions which can be seen at every United States land office, has settled this point conclusively, and a part of the decision is herewith given, to-wit:

"Following the familiar rule of statutory construction, to seek in the act itself the meaning of particular words by study of the context, it seems that the words immediately following 'speculation' explain and define its meaning. If that be accepted, then its meaning is that all the benefit of the title sought to be acquired is in good faith intended to be for the entryman himself, and that there is no intent or contract that it shall inure to any other person analogous to the requirements in other public land legislation under settlement laws. There is nothing in the act—other than the word 'speculation' itself—in any way indicating that congress intended that no one should make such entries, except lumber or timber dealers or those intending themselves to cut and market the timber. If it was intended to so limit these entries, it is obvious that more apt words might have been chosen. If it is not so to be limited, it is an absurdity to prohibit or forfeit an entry because the entryman contemplated profiting by a sale of the land. He would not make the entry and pay money except from a motive in some way to profit himself, and if he does not intend himself to cut or market the timber, and is by statute required to so intend, he perforce must intend to profit in the only way possible—namely, by sale. This is the construction given to the act by the supreme court and by the department heretofore. In United States vs. Budd (144 U. S. C., 154, 163) the court says: 'All that it (the statute) denounces is a prior agreement, the acting for another in the purchase. If, when the title passes from the government, no one, save the purchaser, has any claim upon it or any contract or agreement for it, the act is satisfied. Montgomery (was a timber buyer and speculator) might go or send into that vicinity and make known generally or to individuals a willingness to buy timber lands at a price in excess of that which it costs to obtain it from the government, and any person knowing of that offer might rightfully go to the land office and make application and purchase the tract from the government.

"In United States vs. Bailey et al (17 L. D. 468, 457) the department held: 'That the purpose and intent of the act was to give every citizen of the United States, or one who has declared his intention of becoming such, the opportunity to purchase 160 acres of land under said act, if it was unfit for cultivation, but in every case the entryman is required to act in good faith. This holding in no wise conflicts or interferes with the right of a purchaser in good faith of land under the act, after he acquired title to sell the land if he desires to do so. Sales made soon after purchase, however, if unexplained, have a tendency to arouse suspicion in the mind that when the entry is made it was not for the entryman's own exclusive benefit and use. And when we find 12 entries made in the same manner

in which these were made, money furnished by the assignee, and this arrangement made, I do not see any escape from the conclusion that they were made in violation of the statute, and ought not to stand.

This decision was before the supreme court and was approved in Hawley vs. Dillar (178 U. S., 476), which held (page 490): 'There was no misconstruction of the law by the land department.'

Such has been the consistent construction of the law. (Instruction 31, D., 84, 86; United States vs. Bryan, 29 L. D., 149; United States vs. Searles, 19 L. D. 258, 256). It does not invalidate Land's entry (one of the entries in controversy in this decision) that he used the word 'speculation' instead of the more appropriate term 'investment' to describe the motive for his entry. Nor does the fact that the others of the group admit they made their investments with view to and in hope of proving profitable, impeach in the least their good faith. It only tends to show that they intelligently exercised a right given them by statute in a way that they hoped would prove to their financial and material advantage, as they had a perfect right to do. The disposal of this group practically disposes of all the cases. None of them came within the rule of the United States vs. Bailey, supra. They all but two purchased with their own money, and in a legal sense those two did so, in that they borrowed and contracted a personal debt, one of whom had paid it; the entries were not planned, procured or 'engineered' by any one for his profit, using the entryman as his instrument, compensated for their services in acting in his interests; no prior agreement or contract, expressed or implied, is shown to have been made by any one of them for assignment of the interests to be obtained by the entry. Take the most suspicious one in the list as an example, Annie M. Donahue, who sold to Christie on the date of her proof. In Peasley vs. Whiting (20 L. D., 34), it was held that 'a sale of a timber claim after acceptance of final certificate and prior to issuance of final proof, does not in itself warrant an attack on the entry.' A special examination has failed to show any preconceived arrangement for such sale, or that any one but the entryman herself had any interest or benefit in the entry when it was made, etc. Under the ruling of both the department and the court, all the entries should be approved. (The entries in question in the above decision had all been transferred from the date of proof to one year after proof.)

There is no limitation in the timber and stone act which forbids the entryman from selling the claim immediately after he has made the entry or which requires him to make any particular use of it. In the case of Peasley vs. Whiting (referred to in the Donahue decision above named, 20 L. D. 24), the department held: 'That an entryman has the absolute right to sell the land after proof, even before final certificate and patent have issued.' And in the case of the United States vs. Budd (144 U. S. 154) the supreme court said: 'The act does not in any respect limit the dominion of the purchaser over the land after its purchase from the government or restrict in the slightest his power of alienation. In the case of Kingston vs. Eekman (22 L. D., 234), it was held: 'That an entry made with the intent of selling the timber thereon would not constitute an entry made on speculation.' Then why should an entry made with the intent of selling the standing timber be lawful, and an entry made with the intent of selling the land and a subsequent sale thereof be unlawful? Is not the standing timber really the same as the land itself? and if the sale of the timber is legal the sale of the land itself must be logically also legal. Considerable stress is laid on

(Continued on page 2.)

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