

Crook County Journal

COUNTY OFFICIAL PAPER, \$1.50 YEAR

PRINEVILLE, CROOK COUNTY, OREGON, THURSDAY, MAY 18, 1911.

Entered at the postoffice at Prineville Oregon, as second-class matter

VOL. XV—NO. 23

County Court Proceedings.

May Term.

[Continued from last week.]
Petition for franchise of Deschutes Booming Co. Now is presented to the court the petition of the Deschutes Booming Co., which reads as follows: In the County Court of Crook County, State of Oregon.

To the Honorable Judge and Commissioners of the said court:

This, the petition of the Deschutes Booming Co., respectfully shows:

That the above entitled Court has, by its order heretofore duly entered, declared that portion of the Deschutes river which is south of its point of intersection with the north line of section 4 township 19 south, range 11 east of the Willamette Meridian, up to its forks, and thence the west fork to its source, to be a public highway for the floating and transportation of logs, timber and lumber, and directed and authorized such widening, deepening, straightening, removing of obstructions from, building of dams and booms in, and otherwise improving such stream as may be necessary to render the same fit and suitable for the said purposes, and ordered that the said works of improvement be provided for by contract or contracts of leasing, pursuant to sections 4887, 4888 and 4889 of Bellinger and Cotton's Annotated Codes and Statutes of Oregon; that your petitioner is a corporation organized under the laws of the State of Oregon, for the purpose, among other things, of conducting and booming operations on said portions of the Deschutes river, and desires to obtain the benefits of the said law in order that it may proceed safely and under due authority to make such improvements in said stream as will render the same available for the purposes aforesaid.

And your petitioner further represents and shows that it makes this application with the approval of the owners of a large proportion of the timber in private ownership along the said portions of the river, and that it will be beneficial to them and all others directly interested, and to the community generally, to provide for the opening of the river by order herein, so that the running of logs and timber may be made practicable, economical and safe.

Whereof, your petitioner prays that the court enter into a contract of leasing with your petitioner pursuant to the said provisions of law, providing for such widening, deepening, straightening, removing of obstructions from and building of dams and booms in, and otherwise improving said stream as may be necessary to render the same fit and suitable for the purposes aforesaid, and providing for the acquisition of the necessary riparian rights by the said Deschutes Booming Company, and granting to it the use of said stream with the right to collect tolls for the rating, booming and floating of logs, timber and lumber thereon, at the rates of toll therein to be fixed, for the period of thirty years; and that the bond to be given by your petitioner under such contract of leasing be fixed; and for such further or other orders as may be proper in the premises.

DESCHUTES BOOMING COMPANY,
By S. O. JOHNSON, President,
Veazie & Veazie, Attorneys for Petitioner.

State of Oregon } ss.
Crook County }

I, W. B. Sellers, being first duly sworn, depose and say that I am one of the managing agents of the Deschutes Booming Company, a corporation, the within named petitioner, and reside in Crook County, Oregon, and make this verification on behalf of the said Deschutes Booming Company; that I know the contents of the foregoing petition and believe the same to be true.

Seal W. B. SELLERS,
Subscribed and sworn to before me this 3rd day of May, 1911.

Claudia Wonderly, Notary Public for Oregon.

And also is presented to the court the opinion of the district attorney, Fred W. Wilson, relative to the right and authority of the county court to grant an exclusive franchise for the leasing of the Deschutes river for a logging purpose, which opinion is in words and figures as follows to wit:
Prineville, Ore. May 4, 1911.
Honorable County Court of Crook County, Oregon.
Gentlemen: In response to your request for an opinion concerning the right and authority of the County Court to grant an exclusive franchise for the leasing of the Deschutes river for logging purposes, I beg to state that I have given this subject as much investigation as the time and means at my disposal would permit, and have reached the conclusion that there are grave doubts in my mind as to whether the law providing for the granting of such a franchise is constitutional or not. The present law has not been before our Supreme court for construction and therefore this matter is not definitely settled, and consequently any opinion on this question is at the present time not authoritative. However, as stated above, with the uncertainty which is in my mind regarding the constitutionality of the provisions relating to the leasing of such river for logging purposes, I do not think the County Court would be justified in taking such a step until our Supreme Court has had an opportunity to definitely decide this question.

The second, and which to my mind appears to be a conclusive objection to any such leasing, is that from the information furnished me from various sources, I am of the opinion that the Deschutes river for a large distance is a navigable stream in the eyes of the law. I am told, and have never heard it contradicted, that there are portions of that stream above the city of Bend some distance, where there are stretches of smooth, deep and navigable water, extending from forty to sixty miles in length, and that navigation upon these stretches is easy. If such be the case, and it appears so to be, I do not see how that river could be brought within the provisions of this statute. Of course, it may be said that this question could be tested afterwards, and that if the law is void that the courts could so declare it, but in view of the information that I now have, I do not see how the county court could make a lease or franchise upon a river which upon its

face appears to be a navigable stream. The court is undoubtedly aware of the provision of our statutes which provides that any person can go upon such a stream and remove any obstruction which would hinder the floating of logs and would not be guilty of any trespass in so doing, and this provision was undoubtedly made to cover a case similar to the one now before the court, and any person has this right.

In view of the situation, as it appears to my mind, I am therefore of the opinion that the county court at this time is without authority to grant such a franchise.

Very truly yours,
FRED W. WILSON,
District Attorney.

Thereupon the matter was taken under advisement and duly considered by the court, and the representatives of the Deschutes Booming Co. consented upon the reconvening of the court to a reduction of twenty-five cents per thousand feet in the rates of toll specified in the contract as proposed, and at the request of the county court further agreed individually and as the representatives of the Deschutes Booming Co. to save Crook county harmless from any loss or expense from litigation arising out of said contract and endorsed said undertaking on the proposed contract; and thereupon the said petition was granted by the court, Mr. Bayley and Mr. Rice, the county commissioners, voting in the affirmative and it was ordered that said petition be granted and that the contract proposed and offered by the Deschutes booming company, after being allowed as aforesaid, be approved, allowed and entered into on behalf of the county, and the county commissioners were authorized and directed to execute the said contract on behalf of the county court of Crook county, and it was further ordered that the county clerk be directed to attest the said contract with the seal of the county court. The said contract to become effective upon the Deschutes Booming company giving an undertaking in the form required by law in the sum of \$10,000.00 with sureties to be approved by the court.

And said contract having been duly executed in duplicate by R. H. Bayley and James Rice, commissioners, on behalf of the county court and attested by the county clerk with the seal of the court, and by the Deschutes Booming company by its duly authorized attorneys in fact, W. B. Sellers and John E. Ryan, the Deschutes Booming company presents for approval its bond with W. B. Sellers, John E. Ryan, G. N. Clifton and J. H. Rosenberg of Crook county, Oregon, and Thomas L. Shevlin, M. J. Scanlon and A. R. Rogers of Minneapolis, Minn., and S. O. Johnson of San Francisco.

And the court finding that the said sureties are sufficient and the bond according to law, it was ordered that the said bond be approved and thereupon one of the executed duplicate copies of the said contract was delivered to the representatives of the Deschutes Booming company and the other executed duplicate copy was retained by the county court and the said contract became effective.

At this time H. C. Ellis, county judge, states as his reasons for not joining with the court in the granting of the foregoing franchise to the Deschutes Booming company for the exclusive use of the upper Deschutes river for logging purposes for a term of thirty years, with a fixed price per thousand feet for said period, the following: Ist. That after carefully examining the Federal and State law and the decisions thereunder, I am of the opinion that, under the Code of Oregon, the county court is without power or authority to grant said franchise or any similar franchise.

2nd. That in view of the foregoing opinion of Fred W. Wilson, district attorney, who is by law made the legal advisor of county officials, this court is not warranted in granting said franchise.

While fully appreciating the possibilities and advantages that may accrue to this county from the development of the great lumber resources and while I sincerely hope that said franchise will prove of vast benefit to the people of Crook county, still I cannot see my way clear to join with the majority of this court in the granting of this franchise.

Petition for county road by W. G. Forham et al. Now on this day is presented to the court the petition of W. G. Forham et al for a county road, and upon due consideration it is ordered that the county clerk forward all papers relative to said road to Fred W. Wilson, district attorney, for his opinion as to their validity.

Petition for county road by L. E. Baker et al. Now on this day is presented to the court the petition of L. E. Baker et al for a county road and upon due consideration it is ordered that the county clerk forward all papers relative to said road to Fred W. Wilson, district attorney, for his opinion as to their validity.

Petition for county road by Oscar Cox, et al. Now on this day is presented to the court the petition of Oscar Cox, et al for a county road, and upon due consideration it is ordered that the county clerk forward all papers relative to said road to Fred W. Wilson, district attorney, for his opinion as to their validity.

Petition for county road by W. H. Ramsey et al. Now on this day is presented to the court the petition of W. H. Ramsey et al for a county road, and upon due consideration it is ordered that the county clerk forward all papers relative to said road to Fred W. Wilson, district attorney, for his opinion as to their validity.

Wrongful assessment of I. M. Mills. It appearing to the clerk by the affidavit of I. M. Mills, that he had been wrongfully assessed for the year 1910 for the sum of \$12.50, and that the sheriff, under the provisions of the statute, has remitted the same from the total amount of his taxes, to wit, \$174.57, it is ordered that the county clerk credit the sheriff on the 1910 tax roll with said \$12.50, the same being the amount of said wrongful assessment.

Wrongful assessment of Grizzly Lake Lumber Co. It appearing to the clerk by the affidavit of Grizzly Lake Lumber Co., by G. Springer, that it had been wrongfully assessed for the year 1910 for the sum of \$16, and that the sheriff, under the provisions of the statute, has remitted the same from the total amount of its taxes, to wit, \$68.20, it is ordered that the county clerk credit the sheriff on the 1910 tax roll with said \$16, the same being the amount of said wrongful assessment.

Wrongful assessment of W. W. Millorn et al. It appearing to the clerk by the affidavit of W. W. Millorn that he had been wrongfully assessed for the year 1910 for the sum of \$14.51 and that the sheriff, under the provisions of the statute, has remitted the same from the total amount of his taxes, to wit, \$30.22, it is further ordered that the county clerk credit the sheriff on the 1910 tax roll with said \$14.51, the same being the amount of said wrongful assessment.

Report of county clerk on scalp bounty. Now is presented to the court the report of the county clerk showing payment of bounty on 729 coyote scalps,

Special Election Measures.

Bear in mind the special city election to be held May 29th. There are three measures to be voted on that are of great importance to Prineville. The question of bonding the city for the purpose of "supplying its inhabitants with water, lights, sewerage, parks, buildings and works for public and municipal purposes, to an amount not to exceed ten per cent of the taxable property of the city," is one that should appeal to every loyal citizen. The amendment to the city charter was purposely made broad enough to cover every possible need. What is demanded right now among other things, is a new city hall and better fire protection. We should have one or two chemical engines, as the wisdom of the council may decide, and a suitable place to house them. If we get these things and others that are just as pressing we must raise the money by bond issue.

The tax issue amendment to the city charter is one to raise the millage from 10 to 15 mills. This is an emergency proposition but is right in line with city progression.

422 bob cat front feet, 2 gray wolf front feet, and 2 cougar front feet, amounting in all to \$1523, said scalps and front feet were then reduced to ashes in accordance with the code.

Upon the application of Constance Reid, owner in fee of the land platted under the name of "Imperial," blocks 29 to 43, both inclusive, also owner of the land platted as "Imperial," approved March 2, 1911, and it satisfactorily appearing to the court that said plat and tracing thereof, together with the dedication of the streets and roads as shown thereon, to the public forever, have been filed with the county clerk, that the same have been duly approved by the county surveyor and the county assessor, and it further appearing that all of the requirements of law have been complied with, said plat and tracing thereof is hereby approved by the court and ordered spread of record.

Petition for county road by E. D. Gosner et al. And now is presented to the court the petition of E. D. Gosner et al for a county road, and it appears to the court that the notice of said proposed road as required by law is defective, it is ordered that said matter be continued until the next term of this court. Clerk to notify E. D. Gosner of said defect.

Petition for voting Hanlin precinct. And now is presented to the court a petition requesting the creation of a new voting precinct, and the same is hereby continued to the July term of this court for further action.

Justice of the Peace for Ashwood precinct. And it appearing to the court that there was no justice of the peace in Ashwood precinct, and James Wood being a fit and competent man for the place, it is hereby ordered that he be and is hereby appointed justice of the peace for Ashwood precinct until the next general election.

Claim for poll tax advanced. And now appears W. A. Bell, attorney for claimant, and William Brownhill, supervisor of Lyle Gap road district, and the court having heard both sides of said controversy and being fully advised in the premises, it is ordered that the clerk notify W. A. Bell that Crook county will pay said claimant the sum of \$50 as a compromise of his claim vs. Crook county for \$89 and costs.

Petition for repayment of taxes. It appearing to the court by the affidavit of J. C. Robinson, the certificate of the sheriff of Crook county and by other evidence, that the said Robinson was wrongfully taxed upon substantially \$3000 of uncollectable paper and that he had, by mistake, paid taxes thereupon to the amount of \$87, it is therefore ordered that the county clerk draw a warrant on the general fund in favor of J. C. Robinson for the sum of \$87, being the amount of taxes paid by him under such wrongful assessment.

Appointment of constable for Haystack precinct. It appearing to the court that there is no constable in Haystack precinct the court hereby appoints William R. Hunter of Culver, Oregon, to act as constable for said Haystack precinct until the next general election.

Appointment of county veterinarian. Upon the application of E. A. Barker, et al and subject to the approval of the State Board of Health, the court hereby appoints C. A. Simons as county veterinarian or stock inspector for Crook county for a period not to exceed one year. Clerk is requested to forthwith notify Dr. Calvin S. White, president of the State Board of Health of this appointment.

Supervisor J. G. Clark. It appearing to the court that warrant No.—for \$31, heretofore issued to J. G. Clark, has been lost or destroyed, it is therefore ordered that the clerk draw a new warrant on the road fund for \$31 in favor of said J. G. Clark, and that said clerk notify the county treasurer to cancel and stop payment upon original warrant No.—

Appointment of supervisor for Powell Buttes road district. It appearing to the court that the supervisor heretofore appointed for the Powell Buttes road district has removed therefrom, it is hereby or-

At present this extra millage would not be used but suppose our revenues were all needed for general city purposes and it became necessary to provide a sinking fund to take up the water bonds. How would you raise the money? This extra millage is to be used for such an emergency. If the occasion should arise when it was absolutely needed then it could be called upon.

The amendment relative to appointing minor city officers, instead of electing them, comes up for the decision of the voters. Cities and municipalities are drifting away from the old method of electing all city officials to one of concentrating on a few and holding them responsible or the administration of city affairs. If the amendment to our city charter is changed the power to run the city will be vested in the mayor and alderman. The electors can, by this method, place the responsibility for a good or bad administration right where it belongs. Give these measures your support. That Prineville may rank as one of the progressive towns of the state.

And now is presented to the court an itemized account of the work heretofore done upon said road by C. F. Smith, accompanied by his check for \$74.35, the same being the unexpended fund remaining in his hands. It is therefore ordered that said report be approved and the county clerk is directed to endorse said check, making the same payable to the order of the Crook county road fund and deposit the same with the treasurer of Crook county.

Petition for county road. Now is presented to the court the petition of H. B. Ford, et al, for a county road, accompanied by a bond of \$200 with C. L. Hotelling and H. J. Overurf as sureties, and it further appearing by the opinion of the district attorney herein that all papers are legal and in accordance with the statute, it is ordered that the board of road viewers meet at the beginning of said proposed road on the 5th day of June, 1911, view, review and survey said proposed road and report thereon at the next term of this court.

Petition for county road. Now is presented to the court the petition of L. W. Long, et al, for a county road, accompanied by a bond of \$200 with Roy M. Newell and Robert Bea as sureties, and it further appearing by the opinion of the district attorney herein, that all papers are legal and in accordance with the statute, it is ordered that the board of road viewers meet at the beginning of said road on the 29th day of May, 1911, view, review and survey said proposed road and report thereon at the next term of this court.

And now at this time court adjourned until ten o'clock a. m. Monday, May 29th, 1911, unless sooner convened by call.

Plat for Gateway. Upon the application of George Northrup, et ux, owner of the land platted under the name of "Gateway" and it satisfactorily appearing to the court that said plat and tracing thereof, together with the dedication of the streets and alleys as shown thereon, to the public, have been filed with the county clerk, that the same have been duly approved by the county surveyor and the county assessor, and it further appearing that all of the requirements of law have been complied with; said plat and tracing thereof is hereby approved by the court and ordered spread of record.

Petition for rebate for taxes for 1910. Now is presented to the court petition for the rebate on taxes levied for 1910, signed by upwards of two hundred petitioners. Said petitioners are further represented in open court by G. Springer, H. J. Barnester and W. Stebbins, being the committee appointed by the citizens and taxpayers. After hearing the argument of

Continued on last page.

BOYS' CLOTHING.

Special this month at 1-4 reduction. With this price you are assured of the greatest values ever given here for the money.

Oxford pumps and other footwear for the summer style. Best styles shown this season. Your trade in this department invited.



No Well Too Deep for This Farm Pump Engine

No Weather Cold Enough to Freeze It—No Hours Too Long for It to Work

At last we have found a pump engine that serves all the needs of the farmer and does it in the best possible manner. We investigated a score or more different makes and designs of portable engines to find the one best suited for our customers. We selected the Fuller & Johnson Farm Pump Engine. It is the most wonderful portable engine made.

400 to 1,000 Gallons Per Hour. Think of it! All the fresh water you want at any time or any place. Works in any well, regardless of depth. This farm pump engine completely solves the perplexing problem of water supply for the farm in winter as well as summer. Pumps all the water needed for the house, dairy, barn, feed lot and pasture in a few hours. Costs less to operate than a tank heater and eliminates all boiler and trouble.

FULLER & JOHNSON Farm Pump Engine. Plenty of Power for Complete Water System.



Just the thing for volume pump, pressure pump or tank system. Affords ample power for small Electric Lighting Plant. Works ditch pump and spraying outfits perfectly. Handiest Little Worker on the Farm. Ensuring a reliable water supply for the farm is but one of the ways the Farm Pump Engine proves its superiority. It has pulley for running any kind of hand or foot power machinery. It helps the women folks in the dairy and laundry. Runs the grindstone, feed mill, tanning mill, etc., for the men. Does the work of two extra hired men.

See the Little Wonder at Work. You have read all about this engine in your Farm Papers but you cannot fully realize what a wonderful little worker it is until you see it in action. We show it at our exhibition rooms, doing exactly the kind of work you would expect it to do on your farm. Bring in the whole family and look it over. It is worth a special trip to town. Be sure and come in.

New W. B. Nuform Corsets.

Long waist \$1.25

Extra long waist 1.50

Extra long waist 2.00

This is the corset you see advertised in the Portland papers by the Department Stores, at prices higher than ours. Buy at home and save money.

The Reed Shirtwaist.

New this Week. Stands among Shirtwaists as Silk does to Chamberlay. Finish, Style, Durability, make it easily the best value for the money that can be shown. Sizes 32 to 46. If you are not acquainted with the Reed Shirt Waist, we solicit your inspection.

Red Cross Corset Waists.

For Misses, 65c. All sizes.

Collins W. Elkins.

Prineville, Oregon.

HAS NO SUBSTITUTE



ROYAL BAKING POWDER

Absolutely Pure

The only baking powder made from Royal Grape Cream of Tartar

NO ALUM, NO LIME PHOSPHATE