

FRED HURFORD GETS HIS DISCHARGE

Judge H. T. Bagley Decides No Crime Obtained

WITHOUT AUTHORITY TO HOLD

Famous Toll Road Case is Settled, and Looks Like Lease is Nil

Judge H. T. Bagley today rendered his opinion in the case of the State of Oregon versus Fred Hurford, of Newberg, charged with breaking through the Washington County toll gate on the Wilson River road. The case is one of considerable importance, and is being watched with interest by hundreds in Washington and Tillamook counties. While the court does not pass on the legal part that is involved, his decision practically says that he can not hold the defendant because the records are not lawfully made up, and the procedure is faulty—which is similar to saying that the toll road is being operated without authority of law. The opinion covers a great deal of ground, but the points which vitally follow the case are:

This is a preliminary investigation into the charge against the defendant of willfully and unlawfully breaking down and removing a toll gate on what is commonly known as the "Wilson River Road," in Washington County, alleged to have been committed on August 17. The act charged is made punishable by statute. The facts in the case are few and undisputed. On the day named the defendant, in company with others, approached the gate on the Washington county end of the toll road named, having crossed from Tillamook. No toll was charged on the Tillamook end, as the gate previously had been destroyed. When toll was demanded, the defendant offered to pay 25 cents, the sum charged under the lease held by McSamer, and which was entered into with the County Court of Washington County. Mr. Lee, in charge of the gate, demanded \$1.50, the amount covering the entire distance. Defendant offered to pay, but demanded a receipt. He was informed by the gatekeeper that she had no authority or orders to issue receipts, but consented to sign one if defendant would write it. The defendant then claimed that a receipt written or signed without authority would be of no value, and he declined to pay. He removed a wire link from the chain which bound the gate, passed through, replaced the link, and again offered to pay 25 cents toll authorized by the lease agreement. While both Mrs. Lee and defendant agreed under mistaken ideas as to the receipt controversy, I am satisfied they acted in good faith. The evidence does not disclose any intention on the part of the defendant to avoid paying the toll or to pass through the gate fraudulently. There was no disposition to be arbitrary, but he had an erroneous idea as to the value of a receipt signed by the gatekeeper, and in this he was not alone.

The legal questions involved are not so easy of adjustment. The statute confers on the County Court authority to lease public roads on certain conditions and grant the right to exact tolls. It is contended by counsel for the defendant that the proceedings of the County Court in granting the lease to McSamer are void for want of a sufficient description in the petition and notice. I have examined this contention thoroughly and find it without merit. The authorities cited have to do only with the laying out and establishing of public roads. In such cases the court exercises the right of eminent domain and the statutory requirements must be strictly followed. In the leasing of a road, however, one already located, it is sufficient to designate the road, or portion thereof to be leased, in the notice in any manner calculated to bring the matter to the attention of intending bidders.

There are, however, some serious questions presented by the proceedings before the County Court disclosed by a thorough examination made since this case was submitted. The statute provides that when it becomes expedient and lawful to lease a public road the Court shall make an order to that effect, specifying the terms thereof in the order and directing the clerk to advertise for bids, the manner being fully set out in the act. Section 4949 further provides, among other things, that the order of the Court shall specify the number of gates to be placed on the road and the period for which it is to be let. The order of the Court under consideration simply directs the publishing of notice for bids. None of the other requirements was complied with. No undertaking accompanied the bid, but this alone would not invalidate the lease, as the contract was entered into in accordance with the bid, but one bid was submitted and the undertaking would, under the circumstances, have served no purpose.

Nowhere in the record of the court's proceedings is there an order that the road shall be leased, as required by law; the record omits the description entirely and also the number of gates to be placed on the road and the period for which it is to be let. The lease, nevertheless, drawn by Attorney R. B. Tongue, is in proper form and contains the requirements of the statute, and by it we are informed that the Court acted, did something, concluded some matter. It contains the number of gates, description of the road, and the term of leasing, in addition to other requirements. As summing, without deciding, that the record of the Court can be so amended by a nunc pro tunc order as to remedy the defects and irregularities noted; yet, until this is done, it is clear in the light of the authorities examined, that the lease is not competent evidence; there is no valid evidence obtainable from the records of the proceedings of the County Court as to the leasing or existence of a valid toll road. The law requires me to be satisfied that a crime has been committed. In the face of the conclusion that the crime charged can not be proved by reason of the condition

of the records, even though the Court had power in the first instance to enter into such a leasing, I am without authority to hold the defendant. The facts as cited also justify a discharge and it is so ordered.

Louisa Beamin, of near Greenville, has sued Frank L. Beamin for divorce, alleging that the defendant has treated her in a cruel and inhuman manner, and physically assaulted her. She wants the custody of an eight year old daughter; \$1,000 for the support of the child; fifty dollars per month alimony, and one-third interest in the real estate, which she alleges is worth \$8,000. Plaintiff alleges that she was forced to live with the mother of the defendant, who has a life interest in the realty, and that he would not provide a separate home. She also asks for \$200 for counsel fees and court costs, and wants him restrained from disposing of any of his property until the suit is decided.

Those wanting to pick hops may register either with John Milne, Hillsboro, or with Jacob Schneider, at the Milne-Schneider yard, Leisyville. Will pay as high a price for picking as anyone in Washington county. Register at once.

The former Hillsboro school principal, J. L. Henderson, was beaten Saturday in the swimming race between himself and J. J. Byrnes, a swimming instructor of Portland. The race was from Oregon City to the Oaks, and it took Byrnes over six hours to make the trip. Henderson was far behind when he reached Milwaukee, and he pulled out of the water and made it down to the Oaks by car. The old gentleman was game enough, but age had stripped him of much of his former speed.

Hop picking will start in the Salzgeber yard of 75 acres on August 30. We pay one cent per pound and you can pick all day—till dark if you wish—John Salzgeber, five miles east of Hillsboro. Everything seems to conspire toward a good price for the hop growers of Oregon. While on Puget Sound Dr. F. A. Bailey passed through the hop section, and talked with several of the extensive growers. They all admitted that the Washington crop will not be one-half the usual harvest. This, of course, will have its bearing on the market, as Washington is a big factor in hop production.

To lease for cash, for one year—probably longer: Farm with 60 acres cleared; 40 acres of fair pasture on place. Near railway station. Ideal for dairy ranch—Address "R," Argus, Hillsboro. Fred Shomburg, superintendent of the Oregon C. & N. Milk Co's plant, in this city, left yesterday for an extended trip to Chicago, Milwaukee and Louisville. While not he will visit his brother, August Shomburg, at Evanston, Ill. Mr. Shomburg has not been back in that section for nineteen years, and the trip will be a pleasure to him. While East he will combine business with pleasure.

Speaking of groceries—if you want the finest staple and fancy groceries to be found in the market, try John Dennis. We is after your trade, and once a customer, always a customer.

There was a report here the first of the week that the Bloyd & Sigler mill, beyond Phillips, had been sold to Late Pence, who is now building his big pipe line, and who has a crew out at Shady Brook working on the line. It is said that Pence wanted the mill to cut lumber for him and that when told orders were away ahead of him he bought, so as to have a mill of his own.

We carry a complete line of tinware, hardware, stoves and ranges. Also crockery. Come and see our complete dinner set, at \$8.50.—Schulmerich Bros.

J. B. Walker and J. B. Downing, of below Newberg, were in town Monday, enroute to Wilson River, on a fishing expedition. They state that Winter wheat is going from 25 to 45 bushels per acre down in their section, and that Winter oats are a fine crop. The Downing Brothers threshed 30 bushels of oats, which went 70 bushels to the acre, flat.

For gentlemen's, ladies' and children's hose you can do no better than to buy of John Dennis. We have them for everybody, and at prices that are values.

Prof. J. B. Wilkerson of Forest Grove, came down Wednesday evening and returned Thursday on the Steamer Telegraph. The Professor has a host of friends here who are always glad to welcome him into our midst. They would all be glad to see him return to Rainier to make it his home.—Columbia Register, Rainier.

All kinds of sewing machine needles at Hoyt's—two for five cents, or 25 cents per dozen.

OREGON NURSERY CO. PULLS OUT OF SALEM

Teams Are Shipped to Hillsboro to Their New Purchase

HAS THREE HUNDRED EMPLOYEES

West Union Soon to be Scene of Business Activity

The Oregon Nursery Company, which has purchased the T. R. Imbrie Farm, the W. H. McDowd farm, the Foote property, and the Wm. Nelson ranch, giving them in all a body of about a thousand acres near West Union, northeast of this city, has shipped a dozen horses from Salem, to put to work on their land, preparatory to putting in walnut trees. This company has been located at Salem for about twenty years and the removal from that place is a serious loss to the capital city.

They employ about 300 men and have a large payroll, and have been cultivating 600 acres. They have made a heavy investment here, and trees will be set out as rapidly as possible. Their Salem nurseries have been located on leased grounds, and the company, in looking around for a place to buy, considered this county as one of the best sections in the state. Their land lays nearly all in one body and the site is ideal. The coming of this industry will be of great benefit to the people of this section, and to Hillsboro, as well.

FARM FOR SALE

100 acres of bottom land; 65 acres cleared, balance brush and timber; 4 acres of beaverdam, not cleared; 20 acres seeded to clover. Buildings are all new; good well; Dairy Creek runs through farm; some fruit; 2 horses, set harness, 5 cows, mow, rake, harrow, plow, cultivator, 1,000 lb scales, all new; spring-tooth harrow, 25 tons hay—all goes for \$65 per acre. One and one-half miles from Banks, the new railroad town.

R. B. Bates, Greenville, Ore., R. F. D. 2.

JOHN F. LAFFERTY

John F. Lafferty, of Gales City, died at his home, August 24, 1906, aged 73 years. Deceased was born in Clark County, Illinois, December 5, 1832. He crossed the plains three times, and settled in California in 1857, and settled in Oregon in the early 60's. During the Civil War he was a member of the Lancaster Light Horse Cavalry. After the war he came to Oregon, first settling near Mountaineer, where he worked for D. O. Quick, in the sawmill business. While there he met Mrs. C. S. Loving, whom he wedded in November, 1873. In 1877 they moved to Gales Creek, where he has resided for the last 29 years. He leaves a widow, a daughter, Miss Eula Lafferty, in charge of the Independent Telephone service at Gales City, and a stepson, J. L. Loving. A brother, Newton, who was here years ago, resides somewhere on the Pacific coast. Mr. Lafferty had a wide acquaintance in Washington County, and was noted for his integrity. For many years he has been a sufferer, and some years ago he sustained a paralytic stroke. Interment was in the Gales Creek cemetery.

PUBLIC SALE

The undersigned will sell at public auction on his farm, 54 miles northeast of Hillsboro, known as the Five Oak farm, on FRIDAY, AUGUST 31, 1906

Two horses, 4 good milch cows, six weeks-old pigs, 6 doz young chickens, set double harness, single harness, lumber wagon, two-seated spring wagon, single top buggy, nearly new, McCormick mower, 10-inch stubble plow, 12-inch stubble plow, garden cultivator, disc, nearly new; harrow, hay rake, 100 bushels wheat, 100 bushels oats, 80 grain sacks, two 10-gallon milk cans, cook stove, heating stove, grindstone, breech-loading shotgun, 6 tons timothy hay, 1000 lbs. of tools, and some household furniture.

Terms: All sums of \$10 and under, cash; sums over \$10, eight months time will be given on bankable notes bearing 7 per cent interest. ULRICH HAAS, Owner. J. C. Kuratli, Auctioneer.

RESTAURANT FOR SALE

I will sell my Second Street restaurant at a bargain, for cash. Reason for selling: Am going to move to Buxton, to take charge of my restaurant business at that place. Fred Emerson, Hillsboro.

Geo. Krebs, of Helvetia, was in town Saturday.

Fred Hamel, of West Union, was in the city Saturday.

Screen doors, adjustable window screens.—G. A. Patterson.

W. V. Wiley spent Sunday at Newport, with his son Richard, Dave Reghito, the Beaverton gardener, was in town Saturday.

J. P. Shirley, of east of town, is over on his homestead in the Siletz. T. P. Goodin, the contractor, was in from West Union Monday morning.

Get cream coupons at The Delta Fountain and draw a German Stein.

W. R. Keifer, of Beaverton, was in the city Saturday, and called on the Argus.

Druggist sundries, soaps, shaving brushes, strops etc., at the Hillsboro Pharmacy.

Julius Weisenback, manager of the Johnson farm, at Reedville, was in town Saturday.

Are you a smoker? Then call for the Schiller or Excellencia—Oregon manufacture.

Hon. W. N. Barrett and wife returned Saturday from a trip to Newport and Nye Creek.

For a good smoke try the Schiller or Excellencia—and you will try them again and again.

J. J. Krebs and family have returned from an outing at Garibaldi beach, Tillamook County.

Geo. Hathorn, of Laurel, was in town Saturday. He will begin picking hops about tomorrow.

Use Jap-a-lac to finish your floors and renew your furniture.—G. A. Patterson, Distributor.

Henry Stoffers, of New Bethany, was in Monday, and gives the usual cheering reports of crop yield in his section.

We lead in groceries—the best brands—prices always the lowest, and 16 ounces to the pound.—H. Wehrung & Sons.

Mrs. Max Crandall, who has been visiting her mother at Martinsville, Indiana, for nearly a year, returned home the last of the week.

We are closing out our entire stock of men's furnishing goods. If you want a bargain in a suit give us a call.—Schulmerich Bros.

W. McQuillan and sister were up from below the Road bridge Saturday. Mr. McQuillan is recovering slowly from his accident of a few weeks ago.

You will do well to list your farm for sale with J. C. Kuratli. Will also cry auction sales. Satisfaction guaranteed.—J. C. Kuratli, Hillsboro. Residence in city.

Fred Bulling was in Saturday, and says that Winter wheat is going from 30 to 40 bushels on the hills west of Laurel, while oats are going from 50 to 60 bushels.

For Sale—Good 8-room house on First Street, Hillsboro, good location; water and electric lights; nice home. Good terms and easy payments.—Apply to John Milne. Cal. Jack, Jr., who with W. E. McCourt is spending an outing at Carson Springs, up the Columbia, writes for the Argus. They are expected home in a few days.

For sale: Span mares, about 1100 each; perfectly sound and true; harness, good, and wagon 27, practically new; all for \$275.—E. L. James, 2 miles west of Hillsboro.

Wm. Schulmerich, of Farmington, has returned from the Tillamook Street Fair, where he addressed a meeting of Tillamook dairymen on the subject of dairy farming.

Hop pickers who wish positions in the Ray yards at Witch Hazel, should register at once, so that we may know who are engaged, thus insuring you the work.—Frank Weisenback, Reedville, Ore.

John M. Brown and wife went over to Newport Saturday, and remained over Sunday. During Mr. Brown's absence Henry Hesse carried the mail and John Houset handled the express.

Geo. Morgan has a crew of men at work excavating for the log pit at the mill site, east of South Third Street. Chas. Bradley and A. P. Luther have their teams at work doing the scraper work.

Conductor Chas. Cline, an old time favorite, and who has seen 25 years of service on the passenger runs by this place, is back after a vacation of several weeks, again taking fares on the Portland-Sheridan run.

The state authorities have permitted S. A. Mallory to take his leave of the penitentiary, by reason of triple time, on road work. Mallory was sent up from this county last Fall by Judge McBride.

ATTEMPT TO BLOW UP STEEL COMPANY'S DAM

Explosive Used on the Night of August 16, at Oswego

REWARD OFFERED FOR CULPRIT

Did But Little Damage, But Iron & Steel Company Get Busy

Some one who evidently thought the Oregon Iron & Steel Company's dam at the mouth of the Tualatin River was a menace, took it upon himself to use dynamite or some other explosive to blow out the obstruction, on the night of August 16. A good sized hole was made in the dam, but the damage was very slight. The Company is after the offender's scalp, and in another column of this issue, offers a reward of five hundred dollars for the arrest and conviction of the party who exploded the load.

A number of the settlers this side of the dam are adverse to its location, claiming that it backs water over their lands in the Winter and Spring, and does not permit the overflow to run off the bottoms early enough to put in their crops. The dam has been the subject of litigation in the circuit court here a time or two. Aside from the overflow proposition there are many up the Tualatin who aver that were it not for the obstruction salmon would come up our stream in great quantities during the Fall and Spring freshets, and this alone would be quite a feature.

PUBLIC SALE

The undersigned will sell at public auction at the J. W. Vandervelden farm, one mile south of Roy, at 10 o'clock a. m., on

SATURDAY, SEPTEMBER 1.

3 cows, all fresh, one is a thoroughbred Holstein; Holstein bull, 3 years; sorrel gelding, weight 1400; boy's pony; portable boiler and engine, good repair; wood saw; blacksmith tools, carpenter tools, 7 jack-saws, 100-gallon steel stock tank, rolling harrow; new windmill, never used; McSherry drill, used 4 days; cider mill; bone cutter; farm hand wagon, nearly new; harrows, plows, roller, cultivator, hay-rack, hayfork with ropes and pulleys complete, telephone wire, harness, blocks and pulleys, fanning mill, household furniture and numerous other articles. Lunch served at sale.

Terms of sale: Under \$10, cash; \$10 and over, one year's time, bankable note, at 6 per cent. interest. Two per cent. off cash over \$10. J. W. Vandervelden, Owner.

LOCAL TRAVEL

Gov. Chamberlain has fixed Monday, September 3, as Labor Day, and the occasion will be celebrated by a big time at the Oaks, in Portland, by the various labor organizations. The Southern Pacific will sell round trip tickets from Hillsboro, sales days Sept. 2 and 3, at 85 cents for the round trip, return good until Sept. 5.

The W. C. T. U. convention at Newberg, Oct. 1, 2, 3 and 4, will be given a one and one-third fare from Hillsboro. The public will be given the following return rate to Buffalo, to the Convention of Christian Churches, return limited to Nov. 1, at a rate of \$98.65, east over the O. R. & N. route, and back by the California route. Go and return via Columbia River route, price \$85.45.

COTSWOLD BUCKS FOR SALE

I have for sale several fine, large, full-blood Cotswold bucks. Address or call on Jos. Cawres, five miles northwest of Hillsboro, or Cornelius, Ore., R. F. D. 1.

Finish your screen doors with Jap-a-lac.—G. A. Patterson, Distributor.

Mrs. Mary Wahlstrom and children, Carl and Inez, of Seattle, were guests of Fred Adams and wife, this week.

Gents' and boys' clothing, fall line now in—Kuh, Nathan & Fischer Sincerity make—at H. Wehrung & Sons.

W. G. Hare has been admitted to the Oregon state bar, upon his papers to practice before the Supreme Court of the State of Michigan.

Frank Barr will soon start a cottage on his newly purchased property south of the J. D. Merryman home. The residence will be modern in every respect, and contain five rooms, the structure being 28x36. Jos. Allison is the contractor.

For sale: 20 acres land, 1/2 mile north of town; 4 acres beaverdam on place. Goes for \$1,000. Inquire at this office.

First Quality Drug Store

We provide for the people who have had enough experience to know that inferior goods are dear at any price; who have learned that good goods from a first quality, trustworthy house are always cheaper—really and aggressively cheaper to buy.

We Have Made a Reputation

For our prescription work, because we do the work exactly as it should be done. We pay no one a percentage to send us prescriptions, and, therefore, it pays you to bring such work to

HILLSBORO PHARMACY

R. L. GREAR, Prop.

This is an advertisement, and likewise it is a fact.

When in Need of Flour Try "Holly"

A Hard Winter Wheat Patent Money Back If Not Satisfactory

Remember, we handle

HEINZ' PICKLING VINEGAR

The kind that will

Preserve and Keep Your Pickles Firm and Crisp

Everything in Groceries at right prices. Chickens and eggs same as cash

Vaught Grocery Company

Cultivator and Weed Cutter

COMBINED

J. J. Smith, of Banks, will on May first start a manufactory for the purpose of turning out a

New Invention

which is a Cultivator and Weed Cutter combined. It is so made that it can be

Used Between Rows of Any Width

as it is adjustable, and can be widened or narrowed at a minute's notice, according to the width desired. The device is Mr. Smith's own invention, 1906, and it is intended for use in

Hop Yards, Corn or Potato Fields

and does the work finely, beating any other cultivator on the market. One horse can handle the cultivator in good shape and

CULTIVATE EIGHT ACRES PER DAY

Any one desiring a cultivator of this kind, and wishing to support home industry, may order one by writing or calling on

J. J. SMITH, Greenville, Ore., Route 2

Mr. Smith refers prospective purchasers to John Carstens, Fred Narrup and Will Hetzel, who have these Cultivators.

HOP GOLD BEER

ON DRAUGHT

W. E. McCOURT'S

Second Street, Opposite Courthouse, Hillsboro

WEINHARD'S

(On draught)

The best of all Beers:

Bottled for Medicinal Use

At W. V. WILEY'S

Fine farm for rent. Inquire at (Go to R. H. Greer for Olympic Argus office. flour.