

A LEGAL OPINION.

Judge McArthur Holds That the Lease of the 34-Foot Strip Around the Court House Square is Not Legal.

ALSO THAT THE COUNTY CANNOT SELL ANY OF THE PUBLIC SQUARE.

It will be remembered that the County Commissioners Court of Lane county, Oregon, several months since, employed Judge L. L. McArthur, of Portland, to prepare a legal opinion upon the ownership and status of the 34 feet abutting upon the public square attempted for the holders abutting the same on May 8, 1878. Also his opinion upon the power of the court to dispose of the vacant squares now used as parks.

The County Clerk Tuesday received the opinion delivered by Judge McArthur. It is quite exhaustive of the subject, and would fill, if published entire, many columns of the GUARD. We herewith give a synopsis of the opinion:

"It is settled law that all highways and streets belonging to the public are subject to legislative control. Therefore when the county dedicated the 100 foot strip to the public as a highway it became subject to the control of the legislature. The Legislature authority is not however supreme. It may regulate the use; it may delegate the regulation of the use of the city, but it cannot divert or subject it to misuse clearly inconsistent with the purpose of its dedication or authorize the city to do so.

"A word as to the remedy. The city has a complete remedy and can cause the removal of all obstructions upon the thirty-four foot strip. The county also has a remedy. For the use contemplated the county dedicated the entire hundred feet as a public highway. It used inconsistent with the purpose of the dedication it can and doubtless will be restrained by a court of equity. Nothing can be clearer than that if a grant is made for a specific limited and defined purpose, the subject of the grant cannot be used for another and that the grantor still retains such an interest therein as entitles him in a court of equity to insist upon the execution of the trust as originally declared and accepted.

The next question upon which my opinion is sought, is whether the county can at this time sell any part of the smaller squares for the purpose of establishing a fund to be used in constructing necessary public buildings, such as a court house, jail, etc. There is no doubt but that the smaller squares shown on the plat were dedicated to the use of the inhabitants of Eugene, by the County of Lane, as early at least as May 5, 1856, the county having at the time the proprietary interest in the land. I think too that under the authorities this dedication was irrevocable.

The case of Carter, et al, vs the city of Portland, 4 Oregon 339, is decisive of this question. In my judgment the county cannot now revoke the dedication and sell any part of the smaller squares. In relation to these squares it may be well enough for me at this point to state that I believe them to be under the control of the county subject to the dedication. Neither the charter of 1864, which repealed that of 1862, nor the charter of 1880, which repealed that of 1864, nor the charter of 1891 which repealed that of 1880 gave authority to the city to control these smaller squares in my judgment. The dedication in this case did not place these smaller squares beyond the control of the county in all respects. It can be used for any purposes not inconsistent with the original grant to it or with the dedication. It may erect and maintain all necessary county buildings thereon, but in view of the dedication, I do not think that the county can now assert the right of private ownership to the extent of defeating the dedication by selling any part of these smaller squares."

Fall Creek Flashes.

February 4. T. B. Young was down to Springfield this week.

Chester Edwards, of Eugene, was here over Sunday.

H. F. Hunslett went to Eugene the first of the week.

Beerna and Robert Edwards did business in Eugene this week.

Miss Susie Walker, of Sucoor Hollow, visited friends at Lowell this week.

Miss Celia Hyland returned to her home at Lowell, after an extended visit at Junction.

The voting place of this precinct has been changed to the Big Fall Creek bridge. This place is more centrally located and should be commended by all.

Mrs. Blanton and children of Coburg, who have been visiting relatives here, returned to their home Sunday. We are informed that they will soon leave for Mexico, their future home.

A suit was instituted last Saturday before H. F. Hunslett, J. P. by R. C. Edwards for money due on a settlement with James Howard. The jury gave the plaintiff's judgment for \$5.50.

An Italian Minister Coming.

Rome, Feb. 2.—It is reported that Signor E. Catalani, Italian minister to Copenhagen, will be transferred to Washington, the Italian government having determined on a complete restoration of diplomatic relations with the United States. Baron Fava, who was withdrawn from Washington during negotiations concerning the New Orleans massacre, will be, it is thought, appointed to fill the vacancy at Copenhagen.

It is said that wolves are quite numerous in northern Idaho and Montana this season where they have committed many depredations against stock. In the Priest river country they recently tried an old prospect, and it was some time before he succeeded in fighting them off. The heavy snows fall has driven them from the forests to range near the settlements.

Probate Court.

Met at the Court House, Feb. 1, 1892. Present—Judge Scott, Sheriff Noland and Clerk Walker. The following business was transacted: Estate of C. O. Harbert; Monday, March 7, 1892, set for hearing final settlement. Estate of J. C. Yates; Monday, March 7, 1892, set for hearing final settlement. Estate of A. H. Coon; final settlement heard and administrator, T. G. Hendricks, discharged, and his bondsmen exonerated. Estate of Sarah Maxwell; H. C. Humphrey appointed executor.

Estate of Geo. H. Park; sale made dissolved, as affidavits were filed that at a subsequent sale more than ten per cent in excess could be obtained.

Estate of Edward F. Stiles; administrator ordered to sell the real estate belonging to said estate, consisting of 33.58 acres on the Siskiaw river.

Estate of William Paine, deceased; administrator ordered to sell real estate belonging to said estate, 80 acres in T 22 S. R 3 W.

Guardianship of Geo. C. Taylor, an idiot; sale of real property ordered approved. Adjudged.

R. R. COMPLAINTS.—In the matter of Donald McLeod against the Southern Pacific railroad, alleging an overcharge for the transportation of certain goods from Astoria to Springfield, Lane county, the company has filed an answer with the railroad commissioners. McLeod complained to the board that the company had charged him \$9 in excess of the regular rates and the company has replied that such is not the case, referring to its regular tariff. It claims the shipping agent gave him at \$24, instead of \$32, the regular tariff. The matter will be set upon by the board next Monday. The Rogue River Valley Railway Co. has applied to the board for an advance of freight rates, and they have filed a new tariff sheet for approval. This road runs between Jacksonville and Medford and is four and three-quarter miles in length, standard gauge. The president's letter, claiming that the company is not making expenses has been filed and will be acted upon Monday at the regular meeting of the board.

COUNTY WARRANTS.—County Treasurer Arrington informs us that there are now \$35,000 in county warrants held by residents of Douglas county who have bought them at par for the sake of the interest they draw. He nearly always has money on hand to take up the script as fast as it is issued, which is of great advantage to the county as it enables the officials to purchase everything at cash price. It also benefits people who have warrants to be always able to get the money on them. Mr. Arrington is certainly entitled to much praise for his successful efforts in keeping up the credit of the county.—Roseburg Review.

GAME BIRDS.—Horn & Paine, Monday, received two pair of sharp tail grouse, or "fool hens" as they are commonly called, from A. C. Brown, who is in Idaho. They are some smaller than our grouse, but the general color is about the same. They will probably be turned out in some section of the county, where hunters do not generally frequent.

SOLICITING SUBSCRIPTIONS.—Some men were about town Monday soliciting subscriptions for Jesse Holbrook, whose house and all of its contents burned a week or two ago at Fall Creek. Quite a nice amount was contributed by our liberal hearted citizens.

OPERA HOUSE IMPROVEMENT.—Manager Rheinert has just put to a number of folding seats in the loges of the opera house thus adding considerably to the seating capacity.

The new county printing law is a good one in its effects. It spreads before the people the small details of county business and expenditures. The people in every county in the state are educated as to the distribution of public taxes in a most effective manner. The loss and careless methods of county expenditures will be remedied somewhat thereby. In many counties claims against the county treasury are not sworn to and vouched by any one, in many instances, the semi-annual statements of county finances are made out promptly on time. There is little or no order in filing claims against the county, and the records of the county court are not written up for months after they are made. The Journal is in favor of giving the taxpayers the fullest details of county expenditures. It favors turning on all the light possible. The light will not hurt the good record of our public officials. The people are entitled to have it. Those who cannot bear the full light of day in our county affairs must get out of the light. The light should be turned on our county expenditures, and the people should see what is done.—Salem Journal.

H. B. Miller, says the Ashland Record, is laying his plans deep for the congressional nomination to succeed Congressman Binger Hermann. The latest feature of his campaign occurred recently at his home town, Grant's Pass, when he asked Jerry Numan, editor and proprietor of the Courier, the only paper in Josephine county, to support him through his fight for the office. Although Mr. Miller and the firms whom he owns in Grant's Pass patronize the Courier, the owner of that paper (which is independent in politics) has some conscience and told Mr. Miller that he wouldn't do it. Mr. Miller has now advanced the money whereby the Oakland, Douglas county Observer, which suspended publication recently, is to be moved to Grant's Pass and set as Harry Miller's county organ.

Exchange: A young lady on matrimony bent wants to know if it would be in accordance with etiquette for her, during leap year, to propose a consolidation with the one that, outside of the family, she loves best. Certainly, provided always that she has or can raise the wherewithal to support a husband.

Plaid dealer: The latest fad of Roseburg young ladies is the counting of white horses. When ninety nine white horses and one white mule have been counted, they will marry willy nilly the first gentleman they shake hands with. Young men, beware! the white mule was counted last Monday, and several of the ladies have counted upward of ninety horses.

Princeton Review: On the 21st Governor Penoyer pardoned John A. Flock, sentenced to the penitentiary from this county a year ago last fall for the killing of George Chamberlain on Mountain creek. Flock was convicted of manslaughter, and was sentenced to the penitentiary for two years.

For Sale. 500 rails in fair condition for sale. Apply at this office.

SAGE-BRUSH PAPER.

A New Use to be Made of this Aromatic Weed. BOISE CITY, Idaho, Feb. 1.—Robert Laing, a resident of Boise City, has made a discovery which may be of great value to the sage-brush districts of Idaho, Utah, Nevada and other states. Some time ago he became imbued with the idea that sage-brush might be converted into coarser grades of paper. He secured a wagon load of the supposed useless stuff and began to experiment. By using a lime process and treating the limbs of the brush to protracted boiling, he secured a pulp that more than satisfied his expectation. It was equal to the very best wood pulp, and the presence of a long and strong fibre was plainly demonstrated. Mr. Laing states that he can manufacture sage-brush paper at a small cost, and that he can make a profit by selling it at 4 1/2 cents a pound. He will start East on Monday, his idea being to interest capitalists to aid him in developing his discovery.

His Father Was Naturalized. WASHINGTON, Feb. 1.—The United States supreme court today decided in favor of Boyd in the Nebraska citizenship case. All the justices except Field concurred in the conclusion of the court that Boyd was a citizen of the United States and entitled to the office of Governor of Nebraska. Justices Harlan, Gray and Brown concurred in that part of the opinion which held that Boyd was a citizen because, from the record in the case, it must be considered as established that Boyd's father had exercised all the rights of a citizen, and had in fact, in 1854, taken out his final naturalization papers, notwithstanding that he did not have a record of such final naturalization papers. The court also held there was such a thing as collective naturalization; that the enabling act of the Nebraska constitution naturalized all inhabitants of Nebraska at the time of its admission except such as desired to retain their foreign rights, and that Boyd's exercise of various offices showed his intention of becoming a citizen. The court reversed the judgment of the supreme court of Nebraska and ordered it to take further proceedings in conformity with the decision that Boyd is a citizen. The opinion is by Chief Justice Fuller.

Mrs. Dunnaway Sells Out. PORTLAND, Feb. 1.—Mrs. A. S. Dunnaway has sold her entire business interest in the Century Publishing Company, consisting of seventy-six shares of paid-up unassessable stock to George P. Wheeler, John H. Wheeler and Ralph E. Hanna. The board of directors of the company now are Ralph E. Hanna, president, John Grat, vice president and treasurer, and Geo. P. Wheeler, secretary. Mrs. Dunnaway remains her position as editor of the Century, but has no connection with the business affairs of the corporation.

The State Tax on Corporations. SALEM, Or., Feb. 1.—The secretary of the state board of equalization has completed abstracts showing the corporations in Oregon upon which it is proposed by the board to recommend the legislature to pass a law providing for the taxing of such corporations for state purposes. The abstract shows that express companies doing business in this state pay no license or tax to the state except in a few counties, where the office furniture is assessed. The following are some figures taken from the abstract: Railroad lands ..... \$1,189,651 Wagon-road lands ..... 1,844,281 Railroad tracks ..... 5,995,258 Rolling stocks ..... 613,023 Telegraph lines ..... 249,970

Figures are also given for premiums and risks written on fire, fire and marine, life, and life and accident insurance companies. The secretary has also prepared an assessment blank, which the board will submit to the secretary of state. The abstract shows the following figures for Multnomah county: Value. Railroad lands, 1480 acres..... \$ 4,360 Railroad tracks, 7596 miles..... 356,120 Rolling stock..... 85,518 Telegraph lines, 9093 miles..... 17,148 Telephone lines..... 5,000

Cigar Dealer Assigns. LA GRANDE, Or., Feb. 1.—Scott & Fisher, dealers in cigars, tobaccos and confectionery, made an assignment this morning for the benefit of their creditors. Their assets are given as \$2300, with liabilities of \$3000.

In issuing his call for the next National Democratic Convention to be held at Chicago, June 21, 1892, Calvin S. Breece, Chairman, gives the following representation of delegates: Each state is entitled to double the number of the representation to which it is entitled in the new electoral college, and each territory and the district of Columbia shall have two delegates. He then concludes his call with this paragraph: All democratic conservatives, citizens of the United States, irrespective of past political associations and differences, who can unite with us in the effort for pure, economical and constitutional government, are cordially invited to join us in sending delegates to the convention.

Senator Palmer's head is level on the election of United States senators by the people. We will have some hope for the republic if there can be found in the senate and house patriotism enough and in the president independence enough to give the people a chance to remedy the evil.

The Buffalo, N. Y., Courier complains that Senator Hill "goes after what he wants in a business-like way." Perhaps that accounts for his success. The senator does not go hunting ducks with a brass band accompaniment.

The sheriff of Marion county is considering the advisability of putting up the voting booths for the school election this spring, to educate the voters.

Circuit Court Docket.—The Circuit Court docket for the March term has already sixty-four cases upon it. Thirty-one of them are to recover money, and six for divorce.

NOTES ABOUT WEATHER VANES.

Carved Wooden Vanes Went Out with Figureheads in Ships. When the Phoenician sailor stuck a needle through the stem of a feather and held it out in the wind, he invented the first weather vane, or feather vane. He was nearly equaled by the Indian boy, who was taught to moisten his finger in his mouth and to hold that finger aloft in the air. When that finger grew cold on a certain side the Indian child knew that the wind came from that particular direction. The Phoenicians, however, were probably the first of all civilized peoples to put the vane of feather into practical use.

Since those early days weather vanes have been used in every form and by all races. Modern vanes in their present shapes were first made of wood by traveling carvers and later of copper by tinkers and smiths. They were used on poles, churches, public buildings, ships and were placed on rocky points of land along the seashore. They are now made in every conceivable design and pattern. Horses, cows, deer, eagles, ships, roosters and even pigs are hammered out in copper and used to register the direction of the wind.

The newer vanes have rain cups attached for catching water during a storm. The amount of water that falls is measured by the square inch in a tube under the vane. Wind gauges also are attached. These indicate the speed of the wind. The gauges are small cups hung sideways to the vane. The wind blows them around in a circle and the revolutions are registered by electricity. Nearly all the large weather vanes in town are connected with dials in the buildings below.

The dial is round, like the face of a clock, lettered like a compass, and a revolving hand shows the action of the wind on the vane overhead. Vanes are no longer set in sockets, as it is nearly impossible to keep them properly oiled. They are hung loosely, like a cap on a pivot, and the hollow stem of the vane hangs over the head of the pivot, covering it from rain and rust.

One of the largest vanes ever seen in New York was placed on the postoffice about fifteen years ago. It was so large that it was considered unsafe and was taken down. A good drawing of it is still in existence. The arrow, scroll and banner seem to be the favorite shapes in vanes at present. The fence jumping horse and the plow are yet found on the grounds where country fairs are held, but they are not in great demand. The tobacco leaf vane is found largely in the south and in Connecticut. The spread eagle and running deer are wind signs in the western states, the deer more particularly in Canada. Malt barrels in copper are placed on breweries throughout the country.—New York Recorder.

The History of Tweeds. I had not been many weeks in Edinburgh before one of my friends in the cloth trade wrote me from London inquiring about a "coarse woad black and white checked stuff, made in Scotland and expected to be wanted for trousers," and asked me to send some patterns of it. This was easier asked than performed, for at that period shop-herd's checks were only made in plaids, or bands with borders and fringes. I, however, contrived to cut a small piece from the seam of my brother's cloak and forwarded it. The postage in those days cost 2s. 3d., as the small pattern constituted my note a double letter.

He replied that the article was just what he wanted, and asked me to forward him half a dozen pieces, but at that time I do not believe there was one piece in all Scotland! I, however, soon got them made, and I believe these were the first Scotch tweeds that were sent to London in bulk. My friend was in a position to introduce them into influential quarters, which he did successfully. Increased orders followed rapidly, and he and the firm I am connected with had almost a monopoly of the trade in London in these goods for a considerable time.—Border Advertiser.

The First Iron Ship.

The first iron ship has more reputed birthplaces than Homer. Both the Clyde and the Mersey claim pre-eminence in this respect. Sir E. J. Robison, of Edinburgh, designed an iron vessel in 1816, which was not launched till three years later; and it is said that an iron boat was worked on the Severn even as far back as 1787. Steel was not used in the construction of merchant ships' hulls until 1850. Old salts were not alone in their belief that wood was meant by Providence to float, but iron to go to the bottom. A naval constructor of some repute once said, "Don't talk to me of iron ships; they are contrary to nature." Now none but small craft are built of wood in this country.—Chambers' Journal.

New Modern Greeks Vote.

In Greece at the present day the ballot is a little lead ball. There is a box for each candidate, divided into two compartments. A clerk goes from box to box with the voter, carrying a bowlful of these balls. At each box the voter takes one, puts his hand into a funnel, out of sight, and drops his ball into the yes or no compartment, making a vote for or against the candidate. If he wishes to vote for more than one party there is nothing to prevent him.—New York Evening Sun.

An Enigma to Men.

Most men think that the ways of that woman is past finding out who rails against the male sex for chewing ten cent plugs of tobacco and expectorating on the pavement, yet who goes herself and deliberately wipes up that same pavement with a twenty-five or fifty dollar gown that her father or husband earned by the sweat of his brow.—Albany Sun.

Bentley composed after playing a prelude on the organ, or while taking his "ante-jentacular" or "post-prandial" walks he found in the solitude of the dense forests something more profound and suggestive than anything he could find in books.

Cedar Flat.

February 1st, 1892. ED. GUARD: It has been some time since you have had any items from this part of Lane county, I thought perhaps it might not be out of place to send in a few. Our school, taught by Miss Haden, ended last Wednesday.

There has been some cases of la grippe in the mountains. None of them are dangerous.

There is no show here and stock is looking fine, some of the cattle make their living out on the range.

We have a new church organized here. It is the Free Methodist, I believe. Rev. E. C. Putnam preached here Sunday, the 31st. He lives here on the flat.

Chapman and Son, of Road District No. 81, have had a crew of men working on the roads, in District No. 81, last week. The corduroy east of the old Cogswell house, that was buried last summer by Mr. Geo. Millican, became almost impassable and was dangerous to man and beast to pass over it. Chapman had some of his crew shoveling the blue clay off again, and took out the broken rails from one end to the other, and replaced them with good new plank 2 1/2 inch thick. The corduroy bridge at the high bank opposite the old Barney Wood cabin, over the slide in the bank, gave out while hauling material for the road, and became very dangerous and it also had to be re-covered with new plank. Now we are prepared to announce to the traveling public if they wish to come up this way they can travel over that piece of road with some comfort. As for us, we extend our heartfelt thanks to the county judge and commissioners for giving us assistance in the repairing of one of the worst roads in Lane county, the Pass creek road not excepted.

Now if our supervisor in road district No. 8 would take up the ball and keep it rolling and repair the muddy lane in front of Uncle James Sever's, it would open communication between here and Eugene. If they cannot gravel now they have plenty of old straw in their fields, which if put on one foot thick, would make the road passable, and would not hurt it for graveling in the spring. I for one will vote for a man to send to the legislature next fall who will work for better road laws, no matter what he is, if republican, democrat, farmer's alliance or prohibitionist, for the time has now arrived that Oregon requires good roads. New people are coming in all the time, and there is more people now to travel the roads and of course there are more people to help build our roads. And if we had good roads this state would get more good solid men with capital to build up our state. But if they once see the condition of our roads in winter, or even in summer, they are apt to say, those people living in Oregon must go, either in boats or on horseback, in winter time to get in to their county seat. Respectfully yours, REPUBLICAN.

Thinks She Should Be Repaid.

WASHINGTON, Feb. 2.—Mrs. Swift, wife of the deceased minister to Japan is in the city, and has a claim of \$12,000 before congress for money expended from her private income for improvement made on the new United States legation at Tokio, Japan. The old United States legation there was such a poor structure that it was an object of ridicule among European residents, and it was through the energy of the late Minister Swift that an appropriation was made for the erection of a new legation. The appropriation was not sufficient to complete the structure, and Mrs. Swift used \$12,000 of her private funds, to finish it. If the minister had lived to complete his term of office, thereby enabling the family to enjoy the benefits of the improvements made, no claim of \$12,000 would have been made, but as the minister died and the family was compelled to return home, Mrs. Swift thinks the money should be refunded.

Dr. Spurgeon Dead.

MENTONE, Eng., Jan. 31.—Mr. Spurgeon, died soon after 11 o'clock tonight. His end was painless. He remained unconscious to the last. His wife, Dr. Fitzhenry and Mrs. Thorne were present when he died. The body will be brought to England for burial.

A FOOLISH DETECTIVE.

Allows His Prisoner to Escape When Near His Destination.

TRUSTON, N. J., Feb. 2.—Governor Abbott has ordered that Detective Dalton, who allowed embezzler Hyer to escape from his custody at Pittsburg, Saturday night, be suspended, pending an investigation into the escape. The Jersey police have received no tidings of the young bookkeeper who was arrested in San Francisco, charged with having embezzled \$6000 from William Harney, his employer and cousin. When Dalton arrived at Jersey City Sunday night he had his prisoner's pretty young wife with him. Her father, Superintendent Marsh of the Adams' express company, took her to her home. She was received here with many manifestations of joy. She is believed to have been a party to her husband's escape. Dalton permitted her to occupy the same berth with the prisoner, and the marks of his shoes on the window show that he escaped through that. He could scarcely have done so, however, without his wife's connivance. Dalton was much dejected, or at least seemed to be when he reached Jersey City, and yesterday was confined to his house with physicians in attendance on him.

The Vote 7 to 3 in the Committee.

WASHINGTON, Jan. 29.—The democratic majority of the ways and means committee, by formal action, this morning adopted Springer's policy, and decided to attack the McKinley high tariff by various separate bills. Upon this policy the democratic members of the committee decided to act as a unit.

This conclusion was reached this morning by the democratic members of the ways and means committee after a conference lasting several hours. When the vote was taken, it resulted, 7 to 3, in favor of separate bills. The three dissenting members of the committee gave their adherence to the policy of the majority of their associates on the committee and will act with them, thus making the democratic part of the ways and means committee a unit on the policy which it was decided to adopt. Nothing was said about which particular feature of the present law will be first attacked and this is left to future determination. After a lengthy discussion, Bryan, of Nebraska, offered a resolution declaring it the sense of the democratic members of the committee that its policy with regard to tariff legislation in the fifty-second congress should be one of revision by separate measures, instead of a general revision of the whole system. This motion was carried by a vote of 7 to 3. Those voting in favor of it were Montgomery, Whiting, Shively, Cochrane, Stevens, Bryan and Springer, the new members of the committee. The negative votes were cast by McMillin, Turner and Wilson, members of the committee in the previous congress. The general policy having been determined upon, all the members present agreed to abide by the conclusion reached.

Searching for Concealed Arms.

BROWNVILLE, Tex., Feb. 2.—A sensation was created yesterday in Matamoros by the searching by the military authorities of the residence of Don Enrique Vizzaya, a prominent merchant doing business at Mier, Mexico. His family reside in Matamoros. The military received information from some source that Vizzaya had arms and ammunition for the revolutionist concealed in his house. The square in which his house is situated was surrounded by troops, and the premises searched from cellar to roof, but nothing was found. Mr. Vizzaya is an American citizen, and United States consular agent at Mier.

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