

JUDGE HALL IS CASE WINNER

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and not 1905. All the witnesses seem to agree substantially that from about the year 1900 to the announcement of the prospective building of a railroad from Drain to Coos Bay, and the taking over of the local road by the Southern Pacific Company, there was little if any movement of real estate on Coos Bay, and especially in the vicinity of the property in question. The announcement of the proposed road from Drain was, I take it from the testimony, in August, 1905, and the purchase of the local road was made in July of the year following. As a consequence of these transactions and the hoped-for development thereby, and of the entry of the Smith Lumber Company about that time into the business activities of the Bay, there was a marked "boom" in real estate values during the year 1906, and a part of the land in controversy was sold for several times what the defendant paid for it. It was probably this increase in value which the witnesses had in mind and not the values of the previous year. Numerous witnesses, familiar with real estate values, have testified that the property sold for the full market value, and this is apparent from the fact that the defendants Sengstacken and Smith contracted for its purchase in May, 1905, but hesitated to pay the entire purchase price although amply able financially to do so, because it was considered a hazardous speculation. They, therefore, endeavored to promote a syndicate to take title to and handle the property, and it was only after considerable effort and the refusal of several speculators and dealers in real estate to join in the venture that they were able to interest four of their neighbors and friends in the venture. If the property had been worth what complainant now claims it to have been, it is highly probable that Sengstacken and Smith would have readily taken the entire tract, or in any event they would have had no difficulty in interesting others in the proposition. I take it therefore that the question of actual fraud is out of the case and the only point is the legal effect of defendant Hall's connection with the transaction. Hall was and had been, for several years prior to the sale, the agent and attorney in fact of Mrs. Herrmann, who had formerly resided in Coos Bay, but emigrated to Germany in 1900 or 1901, where she continued to reside up to the time of her death, September 18, 1905.

Mrs. Herrmann, as evidenced from her correspondence, was a woman of more than ordinary business capacity, thoroughly familiar with her property, and Hall, in transacting business for her and especially in the sale of her property, followed her instructions rather than his own initiative. For some time prior to May, 1905, she had repeatedly written him, urging and authorizing him to sell the property in controversy for four thousand dollars. Hall made repeated and diligent efforts to do so, but was unable to effect a sale until May 17, 1905, when he contracted to sell the same to defendants Sengstacken and Smith for \$4400.00, half in cash and the balance on time, secured by mortgage. Sengstacken and Smith gave him at the time their joint note for one hundred dollars as part payment on the purchase price, for which he gave them a receipt, specifying that it was to apply on the purchase price of the property now in controversy. The transaction was to be completed and the title papers passed when the abstract could be prepared and the title approved.

At the instance of Sengstacken and Smith, S. C. Rogers and J. J. Clinkinbeard agreed to each take a two-twelfths interest in the property, and D. L. Rood and Herbert Rogers each a one-twelfth interest, leaving six-twelfths to be divided equally between Sengstacken and Smith, it being agreed as between the intending purchasers that, as a matter of convenience the land should be deeded to the Title Guaranty and Abstract Company in trust for the owners.

On August 30, 1905, the day the sale was to have been consummated and the papers exchanged, Clinkinbeard and S. C. Rogers paid to Hall direct their two-twelfths each of the first payment; Rood and Smith paid their one-twelfth and three-twelfths respectively to Sengstacken to be paid to Hall. Herbert Rogers, however, declined to proceed with the purchase and take a one-twelfth interest in the property, for the reason that he did not deem it a good investment. After Clinkinbeard and S. C. Rogers had paid their proportion to Hall and when Sengstacken went to Hall's office to pay the balance due, except for the one-twelfth interest, and Hall credited Mrs. Herrmann with the entire amount due, agreeing to look to Sengstacken personally for the deficit, in case he and his partner should conclude not to take the interest offered. At that time the deed had not been prepared and signed but not acknowledged. After consulting with his partner and on the following day, Hall informed Sengstacken that they would take

ELKS PLAN TO BUILD HOME

Marshfield Lodge Will Take Matter Up—150 Members Soon.

The Marshfield Lodge of Elks are planning to hold a big meeting two weeks from tonight when plans for the erection of a fine new building on their lot at the northwest corner of Third and Commercial will be taken up. At the same meeting several new candidates will be initiated, bringing the membership up to 150.

The question of erecting a fine home on their lot was suggested at a recent meeting by A. H. Powers. The lodge hasn't sufficient surplus on hand now, but it is believed that there would not be any difficulty in arranging for it. The plan would be to erect at least a two-story building, the lower floors, which would serve for business locations and the upper story to be used as lodge and club rooms, etc.

At any rate, there are considerable preliminaries to be attended to in case the lodge builds and though it is taken up now, it may not be erected this summer, it could be arranged to start it just as soon as the lodge is necessary.

PORTERS GET SUPPLIES.

MAPLETON, Ore., Feb. 4.—Porter Brothers have the barge Nebalem about unloaded and expect to start their tug, the Roscoe, with the barge in tow for Yaquina in a few days. About 375 tons of freight were unloaded in the new warehouse at Mapleton, consisting of supplies for the commissary department. In addition to this there were about 400 tons of building equipment that was unloaded just in front of the school house.

JOAQUIN MILLER ILL.

George M. Miller is home from Oakland, Cal., where he has been visiting his brother, Joaquin Miller, who has been quite ill. He is yet confined to his bed and George M. may make another trip to his bedside in the near future. Mrs. Miller stopped off at Portland for a few days to visit with friends.—Eugene Register.

the Herbert Rogers' one-twelfth interest, and the deed was thereupon acknowledged and delivered. None of the purchasers except Sengstacken had any knowledge of this transaction with Hall until some time after the matter had been completed and deed to the Abstract Company delivered.

That Hall acted in the utmost good faith and with no intention of injuring or cheating his principal is manifest from the testimony. He had been repeatedly inspired by her to make this sale, as she represented she was badly in need of money, and he was consequently anxious that it should not fall through. He was in no way interested with Sengstacken and Smith in the original contract for the purchase, and had no idea or thought of taking any part of the property until it was suggested to him by Sengstacken on the day the matter was consummated and after S. C. Rogers and Clinkinbeard had made their payments and the deed on conveyance had been prepared and signed.

Under these circumstances it is clear to my mind that Hall's purchase could not in any way affect the title of the other parties. All of them except Sengstacken were ignorant of the matter until some days after the same had been consummated. They were in no way responsible for nor parties to Hall's purchase and should not be affected thereby.

Nor do I think the purchase by Hall is constructively fraudulent or voidable to him. It is, of course, settled law that an agent authorized to sell property cannot himself become a purchaser without the consent of his principal, and if he does so the transaction is void as it respects the principal unless ratified by him with a full knowledge of all the circumstances. The reason of this rule is that the law will not permit an agent to place himself in a situation in which there is a conflict between duty to his principal and his own personal interest, and therefore the fact that in a given case the agent's motives were honorable, and that the result was beneficial to the principal will make no difference if the latter chooses to repudiate the transaction. (Mechan on Agency, Sec. 435-461; Robertson vs. Chapman, 152 U. S. 673.) But the reason of the rule does not apply in this case. Here the sale was virtually made by Hall to Sengstacken and Smith in May, 1905. At that time it is admitted he had no interest either immediate or prospective in the property and no idea that he would ever acquire one. His duty to his principal ceased at the time of the contract with Sengstacken and Smith, as far as the fact of the sale was concerned. Thereafter there was no conflict between his duty to his principal and self-interest in that regard. His subsequent taking title to an undivided one-twenty-fourth was, to all intents and purposes, a purchase from Sengstacken and Smith, or Herbert Rogers, and not from himself as agent of Mrs. Herrmann. The fact that the deed had not been formally acknowledged and delivered at the time cannot change the effect of the transaction, or, in my judgment, bring it within the rule prohibiting an agent from buying from himself, nor the evil to be prevented thereby.

It follows that the bill should be dismissed and it is so ordered. Portland, Oregon, Feb. 3, 1913.

FINE BANQUET OF SAN RAMON

Inspector A. M. Greenough and Wife Entertain in Honor of Launching.

Last Saturday evening, A. M. Greenough, the inspector who supervised the construction of the San Ramon, the fine new lumber schooner which Kruse & Banks have just finished for the E. J. Dodge Lumber Company, entertained a large number of friends at a banquet in Loggie's hall. About eighty-six were in attendance. Mr. Greenough was assisted by Mrs. Greenough in the entertainment.

The "San Ramon" will be ready to tow to San Francisco by Feb. 10, to have the machinery installed, after which she will be put on the San Francisco and Portland run, in connection with six other boats of the E. J. Dodge & Co.

Among those present at the banquet were: Messrs. and Mesdames J. T. McGuire, A. M. Greenough, C. A. Smith, C. H. Warrell, K. V. Kruse, George D. Mandigo, C. Lockdam, W. B. Piper, L. F. Falkenstine, Ira B. Bartle, Jay Linden, and H. E. Burmeister.

Misses Thea, Lena, and Laura Kruse, Blanch and Grace Williams, Elen Anderson, Jeanette Nowlin, Thersa Stein.

Mesdames Nowlin and Stein. Messrs. Rev. D. A. MacLeod, John Mullen, Fred Kruse, Peter Loggie, Robt. Banks, Allen Kissin, Victor Anderson, Jeff Hartman.

Mr. Greenough presided as toastmaster Saturday night and speeches were made by Messrs. K. V. Kruse, Robt. Banks, D. A. MacLeod, Geo. Mandigo, Chas. Worrell, Lockdam, John Mullen, Anderson, L. Falkenstine, P. Loggie, C. Smith, J. Hartman, Kehoe, Greenough, Bartle Burmeister and Mesdames Mandigo and Stien, Misses Williams and a number of others.

The remainder of the evening was spent in playing games and enjoying musical numbers rendered by Miss Elen Anderson and Mrs. Chas. Worrell.

A vote thanks was extended the Dodge Lumber Co. for the enjoyable evening spent by all present.

The new steamer built by Kruse & Banks Shipbuilding Company for the E. J. Dodge Lumber Company of San Francisco, was launched at 8:45 a. m. Saturday morning. As she glided into the water Jeanette Nowlin broke the bottle of champagne on her bow, christening the ship "San Ramon." The length of the "San Ramon" is two hundred and ten feet over all, breadth forty-one feet and six inches, with depth of hold fifteen feet. Constructed with three tier deep keelson, eighteen by twenty-four, the top one being one hundred and sixteen feet and eight inches in one solid stick of Douglas fir. There are three sister keelsons in each side, making seven abreast, each 18 by 24. Over 800,000 feet of lumber was used in the building of this ship, and over one hundred tons of iron. The keelson bolts are one and three-eighths inch iron, eight feet and ten inches long with four to the frame, driven through the keelson frame, and clinched over rings on the bottom of the keel. Anchors and chains weight about fifteen ton. One hundred and fifty-two bales of oakum were used to cask the ship. And the greatest care has been given to the interior finish, with her beautiful state rooms, which will easily accommodate fifty or sixty passengers.

Builder's Response.

K. V. Kruse, one of the builders, said in part:

I will avail myself of the opportunity to thank the parties with whom we have been dealing while building the "San Ramon," for the courtesies and kind consideration extended to our firm. I refer to Mr. Parr, the manager of the Dodge Lumber Company, Mr. Tomlinson, the consulting engineer, and Mr. Greenough, the superintendent of construction, who is present this evening. These men are all practical men, who thoroughly understand the difficulties a shipbuilding firm has to contend with and I have always found men of this kind willing to take and give. I am pleased to say that on this job I do not believe that I have added to the gray hairs on my head, nor do I believe my partner has lost any. It is a pleasure to work when you can work in harmony. I also wish to thank the men, one and all, who have helped to complete this boat, for the interest taken in the work and I believe the workmanship will rebound to their credit and bring more of this kind of work to North Bend, as shipbuilding is an industry that brings outside capital into the locality, where such is carried on, we will therefore hope that the men who have had this vessel built, will find it a profitable investment. I also wish to thank the Simpson Lumber Company, Mr. Kehoe and men connected with the mill for the prompt delivery of material and the quality of the same. It appears to me that with the industries in North Bend running to their fullest capacity, a prospective railroad and bridge, a bar dredge, the "Oregon" back shortly, Port Commission in working order, restoration of the jetty promised, the preparation for the fair in San Francisco under way and the great opening of the Panama Canal, which ought to make its influence felt commercially all along the Pacific Coast, there should be good times ahead for North Bend and Coos Bay.

MacLeod's Talk.

D. A. MacLeod in his response said:

"It is indeed a pleasure to be with you at this sumptuous banquet, and I can assure you that thus far I have done my part in getting away with some of the good things provided for the inner man. Words would fail to convey my full appreciation to our esteemed host and hostess,

HUB BRANCH IN MYRTLE POINT

Marshfield Business House Will Establish Another Branch in Valley City.

The Hub Clothing and Shoe Co. have perfected arrangements for opening a branch store in Myrtle Point about March 1. This will be another link in the chain of stores being established in this section by this enterprising concern.

A. J. Mendel visited Myrtle Point this week and closed negotiations for the lease of Lundy's large brick store building there, and it will be fitted up immediately for the new establishment.

"I believe Coos county is on the eve of great development," Mr. Mendel remarked in discussing his new venture, "and I desire to keep the Hub stores at the front in the march of progress. Every new branch store increases our outlet and enlarges our buying capacity, thus enabling us to secure closer prices and render better service to the people. All our stores are operated on the same system which has proven so popular and successful in the original store here in Marshfield."

BANDON ADOPTS CLUB EMBLEM.

BANDON, Feb. 4.—The Bandon Commercial club has agreed upon its emblem, to be imprinted on all literature and letter paper used by the club. Some weeks ago contestants were asked to submit drawings of suitable designs and the successful contestant was awarded a prize of \$5. The drawing selected is a lifebuoy giving a view of the Bandon harbor and lighthouse within the circle of the buoy. Sailing into port is the new steamer Speedwell. Around the circle in the loops of rope are illustrations of Bandon enterprise.

DAN BRUHN'S BODY NOT FOUND

Stuslaw River Has Been Dragged Thoroughly, But to No Avail.

MAPLETON, Feb. 4.—A constant effort has been made to locate the body of Dan Bruhn, who was killed recently by the snapping of a cable and whose body was hurled into the river, but so far to no avail. The river has been dragged thoroughly, but no trace of the body has been found.

Mr. Bruhn had made many friends here during the last two years. Beside this he was a member of the Elks lodge, and the members of this order are especially active in their efforts to find the body. Joe Morris and some of the Porter men are doing all they can.

WANTS HIS FATHER.

Charles Barker of Plymouth, Wisconsin, has written Secretary of State Ben W. Olcott, inquiring for information as to the whereabouts of his father, Charles William Barker, whom he says he has not heard from for 35 years. The father left South Dakota at that time and presumably went to Curry county.—Salem Statesman.

Mr. and Mrs. A. M. Greenough, who have so kindly invited, and amply provided for the occasion.

"As citizens, we all appreciate the worth of any enterprising man in our midst, it is such who accomplish things, who help build up our cities, states and nation. We appreciate at least to some extent the work wrought in building the ship "San Ramon," which was this day launched from within the docks of our city, and at this time extend our hearty thanks to the chief inspector, Mr. A. M. Greenough and through him to the owners of the ship, Mr. E. J. Dodge and Co., of San Francisco.

"With the rising sun, we have launched the "San Ramon," and as she glided smoothly out, we have seen her keel to kiss for the first time the briny wave. We have thus added one more ship to that mighty Army of Industrial Peace, that battles with the wind and wave to convey hither and thither the commerce of the world.

"We note the fact that this is not the first ship that has been launched on Coos Bay. Many and great have been the ships sent forth, and are today playing their way from port to port. Nor do we discount the workmanship wrought upon the same. But when I say that no better ship was ever launched up on the Pacific Coast I do not exaggerate facts, for there are those present, who are experienced shipbuilders, who will bear me out in this assertion. The builders of the same, Messrs. Kruse and Banks are modest men, and let their work speak for them, but their reputation as shipbuilders has already been established upon the coast, and from north to south, men of seafaring life are noting the work wrought in North Bend shipyard and the men who never slight the work or lose sight of the great art of shipbuilding.



Two new Stetson styles—one a conservative shape, the other for the nobby young man.

A satisfied customer is the best advertisement—this fact more than any other explains the unparalleled success of the STETSON hat. If you have never worn a "Stetson," buy one this season. We carry a complete stock in both soft and stiff hats.

"MONEY TALKS"
Hub Clothing and Shoe Co.
Marshfield. Bandon.

WHAT LENTEN SEASON MEANS

Explanation of Observance of Period by Church and Its Significance.

Today, called Ash Wednesday in the church calendar, the holy church calls her children apart from the world to begin the forty days of Lent.

Lent has been spoken lightly of by many Christians because they have not understood all that it stands for in the Christian year. Without Lent, there can really be, from the church standpoint, no Easter, for the joy and the triumph of Easter day presuppose that we have had a part in the forty days commemorating Christ's temptation in the wilderness, and more particularly, in the incidents and events of Holy week, leading up to His Passion and crucifixion.

Lent is a special retirement from the pleasures of the world, for more careful, devout and frequent prayer, for abstinence in matters of food, so far as is consistent with health, and in general, it is a season calling us to works of holiness and devotion, and for helping us to live honest and Christian lives, and to prepare us for the life after death. Life is too real to be trifled with; death too sure to be forgotten. It is to fit us for both that God calls us to this special season of fasting and prayer.

"But," says some objector, "are we not called upon to do these things all the year through? Why do you try to crowd all your Christianity into a brief forty days?" Herein lies the misunderstanding. Of course we are to do these things all the year through. No true Christian believes otherwise. Lent, a time given us by our church, and coming down to us from the time of the Apostles, lays before us the great principle, that in things spiritual and religious, there must be extraordinary acts and exercises of devotion. There must be a time when we can take a spiritual inventory; to redouble our efforts as we strive to follow Christ through the closing scenes of His earthly life. Every business man has his time or times when he takes stock, when he looks fairly and squarely at the position he holds in the business he follows. He feels better for the knowledge and the certainty which this stock-taking brings.

The one who is not willing to search his heart and see where he stands in the sight of his Maker, probably has something there which he is ashamed to have disclosed. So long as he continues in that frame of mind and heart, there is a barrier between himself and his God. There is no repentance, and with no repentance there is no renewal of spiritual life.

Lent asks us if we are willing to make some personal sacrifice for Him who made for us the sacrifice of His life. That personal sacrifice has its several outlets—more fervent prayer and deeper devotion;

BENEFIT BALL IS BIG SUCCESS

Large Crowd Attended Club Dance Last Night—Receipts Will Be Large.

The benefit ball given by the ladies of the Bridge Club at Eagles' Hall last evening was a big hit for the Marshfield Public Library, was a decided success and financially. The hall was tastefully decorated, the music excellent and while the crowd was little large for dancing, everyone enjoyed themselves immensely. Receipts from the sale of tickets were about \$25 and about \$15 taken in at the door, in addition to the large advance sale of tickets. All of the latter returns have been made, but a business meeting will be held tomorrow with William Horsfall when the matter will be gone over and profits determined.

SAINT PATRICK'S DAY MUST BE POSTPONED

There will be no celebration of St. Patrick's day this year for the fourth time since 1860 and the time in the twentieth century. Irishmen will be unable to celebrate the annual feast day of their native country, but will content themselves that this will be the last time that they or their descendants will have to forego a holiday which should be theirs March 17.

It is all because the annual day comes on the second day of the holy week, and the Catholic calendar that all feasts shall be postponed or canceled if they fall the week before Easter.

There have been only three times in the past that the celebration of St. Patrick's day was suspended on account of holy week. They were in 1818, when Easter fell on March 23, the earliest date on which it can fall; in 1845, and 1876, when it came on March 23, the same date as this year. Calculators have figured Easter dates until the year 2000, but they have found no year in which Easter will come so early as to keep the Irish from singing the praises of their patron saint.

more regular attendance at services of the church; some deny each day throughout Lenten season is something to be proud of, a real sacrifice to a more definite practice of duty to others who need; an earnest desire to make the world a better place in which to live by a selfish love for God and for brother man.

There can be nothing overdone or unreal about Lent viewed in this light. Those who observe it, as the church expects her children to do, will receive something of the joy and the peace of Easter day.

Coos Bay Business College

Good positions are going begging here all the time. We have another one now—for a girl—\$75.00 a month start. In a few months we will be swamped with demand for trained help. Are you listening. Bookkeeping, Arithmetic, Penmanship, Correspondence, Shorthand, Typewriting, English, etc. etc.

DAY AND NIGHT SCHOOL
Telephone 402.