

Lincoln County Leader.

Independent in all things, Neutral in Nothing.

Volume IV.

Toledo, Lincoln County, Oregon, Thursday, March 4, 1897.

Number 51.

DIRECTORY.

LINCOLN COUNTY.

County Seat
 County Representative,
 County Judge
 Sheriff
 Treasurer
 School Superintendent
 Assessor
 Coroner
 Commissioners

Tol. Carter
 E. R. Lake
 J. D. Stearns
 B. F. Jones
 George Landis
 J. L. Hyde
 S. G. Irvin
 Z. M. Derrick
 Hurley Lutz
 T. M. Coombs
 Chas. Williams
 F. A. Godwin

County Commissioners Court meets on Wednesday after the first Monday in February, April, June, August, October and December.

CIRCUIT COURT.

Hon. J. C. Fullerton, Judge
 W. F. Vane, Attorney
 Court convenes on 4th Monday in July and fourth Monday in January of each year.

CITY OF TOLEDO.

H. F. Jones, Mayor
 J. F. Stewart, Recorder
 R. A. Arnold, Marshal
 C. B. Crosby, Aldermen
 C. L. Gobel
 C. L. Tolson
 L. M. Starr
 Lester Waugh
 A. T. Peterson
 Council meets on the first Monday evening in each month.

TOLEDO PRECINCT.

Justice of the Peace, J. A. Hall
 Constable, J. C. Altree

NEWPORT.

Justice of the Peace, Geo. F. Sylvester
 Constable, W. H. Crutchfield

YAQUINA.

Justice of the Peace, J. S. Booth
 Constable, W. L. Watkins

ELK CITY.

Justice of the Peace, A. R. Clark
 Constable, Alex. Burkhalter

LITTLE ELK.

Justice of the Peace, Chas. Henderson
 Constable, Z. S. Derrick

NASHVILLE.

Justice of the Peace, L. S. Huntington
 Constable, N. F. Edwards

BEAVER CREEK.

Justice of the Peace, Sam'l Hill
 Constable, Joseph Gourley

TIDEWATER.

Justice of the Peace, N. J. Goodman
 Constable, W. A. Vidito

LOBSTER.

Justice of the Peace, L. A. Feek
 Constable, W. P. Taylor

LOWER ALSEA and YAQUATS.

Justice of the Peace, Wm. Wakefield
 Constable, John Eary

SALMON RIVER.

Justice of the Peace, Char. Reed
 Constable, M. Berton

ROSS.

Justice of the Peace, W. H. Cook
 Constable, G. O. Croxford

CHURCHES AND SOCIETIES.

METHODIST EPISCOPAL CHURCH—Services at Toledo on the first and third Sabbath of each month, morning and evening; services at Seitz on third and fourth Sabbath of each month. Rev. W. H. MYERS, Pastor.

ST. JOHN'S CHURCH (Protestant Episcopal). Divine service the third Sabbath of every month at 11 a. m. All are invited to attend. Rev. Chas. Booth, Missionary. Residence, "Theology," Newport, Or.

I. O. O. F.—Toledo Lodge, No. 308. Meet every Saturday evening at their hall in this town. J. R. TURNIDGE, N. G.
 J. T. EWING, Sec'y.

I. O. O. F.—Bay Lodge No. 116, of Yaquina City, meets every Wednesday evening. Visiting brothers are always welcome. S. A. PRUITT, N. G.
 E. J. BURROWS, Secretary.

I. O. O. F.—Newport Lodge No. 89, meets every Saturday evening. Visiting brothers are cordially invited to attend. L. O. GIBSON, N. G.
 J. W. OLIVER, Secretary.

I. O. O. F.—Elk Lodge No. 111, meets every Saturday evening in its hall at Elk City. Visiting brothers always welcome. F. A. MILLER, N. G.
 S. G. WELKEL, Sec'y.

F. & A. M.—Newport Lodge No. 85, regular convention on Saturday on or before each full moon. Visiting brothers are cordially welcomed. A. H. HAMPTON, M. W.
 JOHN BUCKLEY, Sec'y.

Yaquina Bay Council No. 745 National Union, meets on second and fourth Friday nights of the month. Traveling friends are welcome. M. E. PEARS, Sec. B. F. JONES, Pres.

DD GOOD LODGE No. 70, DeKalb Degree, I. O. O. F., meets in the Odd Fellows hall in this city on Tuesday evening of each week. ALICE WAGG, N. G.
 ANNETTE KROGSTAD, Secretary.

G. A. R.—The Lincoln Post No. 68, meets in the Good Templars Hall on the first and third Saturdays of each month. H. B. STURDEVANT, Post Com.
 T. P. FISH, Adjutant.

A. O. U. W.—Western Star Lodge No. 73, meets in the Odd Fellows' hall, Yaquina, on first and third Saturday evenings in each month. Visiting brothers are always welcome. H. K. LUGGER, M. W.
 H. L. TRAVIS, Recorder.

WOODMEN OF THE WORLD—Pocahontas Camp No. 299, Toledo, Oregon, meets on the first and third Thursdays in each month in the Odd Fellows' hall. Visiting neighbors are always welcome. R. A. ARNOLD, GEO. BETHERS, Clerk.

Syringa Grove, Woodmen circle, meets on the 2nd and 4th Thursdays of each month at 7:30 o'clock p. m. Mrs. JENNIE ARNOLD, W. G.
 Mrs. EUNICE AKIN, Clerk.

W. R. C.—ABELINCOLN WOMAN'S RELIEF Corps, No. 49, auxiliary to the G. A. R. Meets on the 2nd and 4th Thursdays in each month in the I. O. O. F. hall, at 2 o'clock p. m. Mrs. ELIZA EWING, President.
 Mrs. CARRIE PEARS, Sec'y.

Wanted—An Idea Who can think of some simple thing to patent? Protect your ideas; they may bring you wealth. Write JOHN WILDERMAN & CO., Patent Attorneys, Washington, D. C., for their \$1.00 price offer and list of two hundred inventions wanted.

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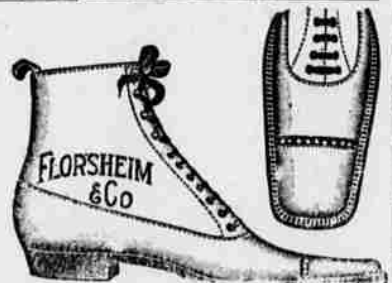
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YAQUINA.

GRADY WINS THE ROAD CASE.

The Supreme Court Decides the Case of Grady vs. Dundon, et al., in favor of Grady.

Last Monday the Supreme court handed down a decision in the road case from Lincoln county, of C. M. Grady vs. Alonzo Dundon et al. The decision was rendered by Chief Justice Moore, and read as follows:

"In the case of Catherine M. Grady vs. Alonzo Dundon et al., the decree of the lower court was reversed. The opinion was rendered by Chief Justice Moore. This was a suit of Catherine M. Grady vs. Alonzo Dundon, as road supervisor, D. P. Blue, as county judge, and M. L. Trapp and J. O. Stearns, as county commissioners of Lincoln county, to enjoin a threatened trespass. The plaintiff alleges that she is the owner in fee simple and for more than ten years prior to the commencement of this suit has been in peaceable possession of a tract of land about fifty feet in width and seventy feet in length in the town of Toledo, upon which there have been erected a store and a butcher shop. That the defendants wrongfully claimed that a county road had been laid out and established across said real property, and are threatening to, and unless restrained, will tear down and remove said buildings and open the pretended highway to her irreparable injury, and she prays that the threatened trespass may be permanently enjoined. The defendants alleged that at its regular term in May, 1867, the county court of Benton county, which at that time had jurisdiction over the territory now included in Lincoln county, upon a petition therefor signed by twelve house-holders, appointed viewers and a surveyor, who viewed and surveyed the county road in question, and having made a report thereof the court at its said term made an order establishing a county road across said premises, in pursuance of which the road supervisor opened the same, and that it had been continuously used thereafter as a public highway until 1890, when the plaintiff, without any license therefor, obstructed the same with the buildings mentioned in the complaint.

They further allege that John Graham, the plaintiff's father and grantor, was the owner of the premises in question when said proceedings were had; that he was one of the petitioners for the road, and present at and assisted in its location and from that time until his death, in 1883, he at all times recognized it as a duly established highway and that the plaintiff attained her title to the said premises with notice of its location thereon. The cause was referred to a referee who took and reported the evidence, from which it appears that the defendant introduced, over the plaintiff's objection, a copy of the order of the court of Benton county, which recites that the viewers and surveyor had viewed and surveyed a road as prayed for in the petition, and that no remonstrance having been filed or claims for damages presented, it was ordered that the road so surveyed be declared a public highway, and the road supervisor was ordered to open the same, but there is no finding, nor does it otherwise appear from the record, that any notice was given of an intention to apply for the location of said road. The referee having found for the defend-

dants the court affirmed his report and dismissed the suit from which decree the plaintiff appealed.

Justice Moore said: "The defendants having contended that a public highway existed across the premises in question, the burden of proof was upon them to show that the road had been legally laid out, established and opened; the defendant also maintained that the road was viewed, surveyed and recorded after July 1, 1866, and that a subsequent act of the legislature (in 1870) had validated all irregularities in the proceedings.

"The record offered in evidence failing to show that any notice whatsoever was given of the intention of the petitioners to apply to the county court for the establishment and location of a county road across the premises in question, it could not be said that jurisdiction was obtained to make the order upon the validity of which the defendants relied (Latimer vs. Tillamook county, 22 Or., 291).

"The power to appropriate private property to public use is derived from the legislature, which may prescribe the mode of its exercise and must provide a judicial tribunal for the determination of certain facts as a prerequisite to the exercise of such power, but the legislature cannot dispense with notice of some kind to the owner of the property affected by the location of a public highway, for to do so would be a violation of the 14th amendment to the federal constitution and tantamount to the deprivation of property (without process of law).

"* * * Without notice of some kind the county court can obtain no jurisdiction of the person of the owner of real property in condemnation proceedings and any order or judgment rendered without notice must necessarily be void, and as the legislative assembly cannot validate a judicial proceeding void for want of jurisdiction, it follows that no rights can be predicted upon the order of the county court declaring the route surveyed a public highway."

While the evidence tended to show that John Graham, the plaintiff's grantor, had admitted that while holding the legal title that a road had been established across the premises, but whatever the effect of those admissions they were held to have been rendered inoperative by reason of an adverse user by the plaintiff and her predecessors in interest.

The court held that there has not been such a user of the premises as to indicate that a public road had ever been established, and that there had been such an adverse user for ten years as to bar the right of the public, and for this reason the decree was reversed and one was entered perpetually enjoining the defendants from trespassing upon said premises.

Under the steel rail pool steel rails were sold as high as \$40 per ton. The pool burst and rails dropped to \$15 per ton. And still Carnegie and other steel kings kept cutting the wages of their workmen when their admitted profit was nearly twice the cost of production.

Gov. Bushnell, of Ohio, has announced that he will appoint Mark Hannah to succeed John Sherman in the U. S. senate. Mark will make a very acceptable addition to that rich man's club.