

IMPORTANT DECISION

The Question of Jurisdiction in the Olsen Case.

JUDGE MC BRIDE'S OPINION

A Subject of Unusual Interest to Residents of Both Oregon and Washington.

Following is a copy of Judge McBride's decision on the question of jurisdiction raised in the Olsen case. It will be found of unusual interest to owners of traps and fishermen on both sides of the river:

State of Oregon vs. Christ. Olsen.—Opinion of the Court:

The defendant is indicted under the Oregon statute of 1891, for the offense of keeping his trap or pound net open and in a condition for fishing, during the weekly close time, to-wit, on Sunday.

Said statute provides that it shall be a misdemeanor for any person to so keep his trap open on Sunday anywhere upon the Columbia river.

The evidence shows that the trap in question is situated quite a distance north of the main ship channel of the Columbia river, and clearly within the territorial boundaries of the State of Washington.

The motion is to discharge the defendant upon the ground that the crime having been committed beyond the boundaries of this state, and the trap in question being a permanent structure attached to piles or posts driven into the bottom of the river, and therefore into the soil of the state of Washington, this court has no jurisdiction to try the offense.

The motion is further urged upon the ground that the state of Washington has by law authorized the licensing of fish traps or pound nets in the waters of the Columbia river, and that the defendant, having taken out his license in pursuance of such law, is protected by said license.

The questions raised by this motion are very delicate and difficult, and but little light is afforded the court by any previous decisions, none of them having ever been called upon to adjudicate precisely a similar question to the one at bar.

The statute in question in this case is broad enough in its terms to embrace any person fishing on Sunday by any means anywhere on the Columbia river, whether within or without the territorial boundaries of this state, and unless said statute is void as an invasion of the sovereignty of a sister state, the motion to discharge the defendant must be overruled.

The act of congress admitting Oregon into the union provides, among other things, that the boundary between Oregon and Washington shall be the middle of the widest channel of the Columbia river, "including jurisdiction in civil and criminal cases on the Columbia river concurrently with the states and territories of which said river forms a boundary, in common with said state."

A further section of said act of admission provides "that the state of Oregon shall have concurrent jurisdiction upon the Columbia and all other rivers and waters bordering on state of Oregon, so far as they shall form a common boundary, etc., and all said rivers and waters shall be common highways forever free to all the inhabitants of said state," etc.

It is claimed for the defendant that these sections of the act of admission, while they give jurisdiction in civil and criminal cases on the Columbia river, are only applicable to boats and other craft floating or navigating said river; that such jurisdiction is only given to obviate the difficulty of proving the venue of a crime when it happened to be committed on some craft floating on the waters of the river, and to provide for other exigencies of like nature; that the words on the Columbia river should be construed to mean "floating on the Columbia river" or "navigating the Columbia river," and that such concurrent jurisdiction does not attach on a case of this kind, where the trap was in the nature of a permanent fixture driven into the bottom of the river; that in such a case a trap being attached to the really becomes part of the soil of Washington, and not subject to our laws or regulations, and therefore no liability attaches by reason of the same being kept open in violation of the provisions of our fishing laws.

It is said with much force that if Oregon can regulate the fish traps on the Columbia river that Washington can regulate the wharves of Astoria and the net racks at Smith's point, and levy taxes and licenses upon such structures.

While conceding that this argument is plausible and entitled to serious consideration, I am not prepared to admit its correctness or to concede that a contrary holding would necessarily lead to the possible results predicted.

These legislative grants of sovereignty are not to be construed by the same narrow rules that would be applied to a deed or will, but should have a broad and liberal interpretation commensurate with their importance and the great and divergent interests with which they deal.

What, then, were the reasons for this grant of concurrent jurisdiction?

I answer: First, for the reason suggested by counsel, the difficulty of showing that process was served or a

crime committed at any particular place, on one side or the other of the state line, and this difficulty, while it would perhaps be greater in the case of a vessel floating upon the waters than in the case of a permanent structure, would even in that case be very great. "The middle of the widest channel," "the middle of the widest channel," are the terms used in the act of admission, and in this broad river of shifting sands and changing channels, it would not infrequently be difficult, if not impossible, to determine for the practical purposes of a law case, on which side of such a variable boundary a particular structure might be situated, but if the courts of either state could take jurisdiction, uncertainty would cause no inconvenience.

Second, the provision that such river should be a public highway, forever free to the citizens of this state, would have been nugatory if there had been withheld from the legislature of this state the power of keeping such highway free and unobstructed.

To protect this grant of a free and unobstructed highway upon the Columbia river, congress granted to this state this concurrent jurisdiction in civil and criminal cases, and in my judgment it has the right to regulate or entirely remove an obstruction placed in such highway, whether under the authority of a grant by the legislature of a sister state or otherwise.

Take this particular case, for example. There has been introduced in evidence by defendant the law of Washington territory authorizing the licensing of fish traps on the Columbia river. Under its provisions all that is necessary is for some citizen to select any portion of the river he chooses, so that it is north of the main or middle channel, and pay \$10 and he must be licensed to build a trap. He may select the very center of a channel used for the daily purposes of commerce; there is no restriction, no discretion granted to the fish commissioner. He must grant a license.

Such a law is in its scope and policy so contrary to the provisions of our act of admission into the union, so violative of the compact by which the waters of the Columbia river are made a public highway for all the citizens of both states, that I feel assured that it is wholly void and will not be declared so by the courts of the state of Washington, should that question be brought before them.

Third, another object of this grant of concurrent jurisdiction was to enable either state to protect the fishing industries of the Columbia river.

It has been held by the courts of the United States that the fish in a river are the common property of the citizens of those states along whose borders such rivers flow.

The value of the Columbia as a salmon producing river was well known when Oregon was admitted, and it is very reasonable to conclude that this concurrent sovereignty on the river was granted in order that the legislature of this state might by appropriate legislation preserve to the people of this state the free enjoyment of their share of this great source of wealth.

The business of catching and preparing salmon for market has grown to be one of the most valuable industries of the Pacific Coast, and if a sister state can by legislation license the wholesale destruction of fish, or by mere inaction permit the business to be so conducted that the supply of salmon must inevitably be destroyed in a few years, then it in effect is permitted to destroy the common property of the people of this state in the salmon of the Columbia river. It was not the intention of congress to permit any state along the Columbia river to perpetrate such an injustice upon its own citizens and such an outrage upon ours, and it therefore gave to either state the right to prohibit any act that would have such hateful consequences.

I think the foregoing are the reasons that led congress to divide the sovereignty of the two states upon the Columbia river, and that upon those matters that are within the reasons of the act of admission, both states have a right to legislate for the protection of the common rights of their citizens, and in the very nature of things there can never be any conflict of jurisdiction on these subjects; any legislation by either state in protection of these common rights is valid; any legislation by either state in derogation of such rights is void, and the courts of the United States stand as the common arbiter between the parties whenever there shall arise any apparent conflict.

In this case there is no real conflict. Defendant held a license from Washington territory that authorized him, or purported to authorize him, to maintain a fish trap. The law of Oregon did not pretend to deprive him of this right, but only provided that he should so use his property that the business of fishing should not be destroyed, and this it had a perfect right to do anywhere upon the Columbia river.

The motion to dismiss is overruled.

STANDS WITHOUT A RIVAL.

Gentlemen: I have been troubled with very severe headaches for years, and have taken a great many different remedies, but have never found anything to give me as speedy and permanent cure as Krueger's Headache Capsules. In my opinion they stand without a rival. They have cured me in every case.

J. N. WILKIE,
25 Adams ave., West, Detroit, Mich.
For sale by Chas. Rogers, sole agent, Astoria, Oregon.

NOTICE.

After this date the undersigned will not sell coke or coal by retail to any one within the limits of the city of Astoria, their retail business having this day been sold to H. F. Prael & Co. ASTORIA GAS LIGHT CO.
Astoria, February 1, 1894.

GOOD FOR RANIER.

An Ordinance Granting the Right-of-Way for the Railroad.

The following dispatch was received at this office last evening:

"Ranier, March 3.—The city council of Ranier passed an ordinance yesterday afternoon granting a right-of-way to the railroad. Reports from different committees on right-of-way report good progress made."

JAMES W. WELCH.
CORRESPONDENCE.

Additional Expressions of Opinion on the Question of Mr. Braekhus' Inspiration.

The following communication will explain itself:

Astoria, March 3, 1894.

Editor Astorian: It is said that some people in this city compare Mr. Braekhus with Hans Nielsen Hauge, in Norway, or Wesley in England, but this comparison is a poor one. In those men's time the churches of said states were fallen down to form—Christianity or rationalism. Now, here in America, the true word of God is preached just as the successors of the same church, which Hauge raised his voice against, and none of the Scandinavian Lutheran churches are more anxious to preach the pure word and have worked more for the kingdom of God than just that church, against which the Dano-Norwegian conference is raised as an opposition.

LUTHERAN.

BELIEVES IN BRAEKHUS.

The "Inspired" One Finds a Vigorous Defender—Dr. Janson's Letter Criticized.

Astoria, March 3, 1894.

To the Editor of The Astorian: It was a surprise to find a long article in yesterday's paper, written by Dr. Janson, concerning Mr. Braekhus.

The doctor has never examined the man, and how, then, can he pronounce him a monomaniac? We had expected at least that the case was worthy of examination before pronouncing the man insane. If that is the way the doctor practices, I would not recommend him as a physician. I know there are different opinions; so it was with Christ, as some said: "He is good," while others said, "He has the devil," and as the doctor does not confess himself to be a Christian, we could not expect anything else. But the doctor would undoubtedly have done better if he had kept his wisdom to himself. Three of the best doctors in Seattle, Wash., have carefully examined Mr. Braekhus, but they could not find any indication that he was a monomaniac. Dr. Janson speaks of hypnotic cures. Why does not the doctor resort to hypnotism in practice? The doctor speaks also of doing this man injustice. How does the doctor know? The doctors in Seattle told Mr. Braekhus to proceed, and that after careful examination. But Dr. Janson must be of the opinion, there would be quite a few converts, that's why the man ought to be prohibited from continuing. There might be many things to correct, but I will leave it to the citizens to judge themselves.

A CITIZEN.

ST. MARY'S HOSPITAL.

Since the year when St. Mary's Hospital was opened in Astoria, by their yearly reports, through newspaper mention, but chiefly by the noble work of ministering to the sick, the hospital has become well known and appreciated by the people of Astoria. There is nothing new to be said of the building, its convenience or its management, but the people within its walls come and go, an ever-changing population, and no two visits to the hospital wards would ever seem alike. At present there are only 23 patients in the hospital, which is a small number compared to the days when Astoria had more shipping; then there would be sometimes nearly 50, and they would be from every point of the globe. A majority of the patients are Protestants, the nurse said yesterday, and probably one-third are females. One of these was a Mrs. Thompson, from up the Coast, who was roused out of a nap she was taking in an easy chair to see her visitors. She said she had come to the hospital to be treated some time ago, and was getting along finely. She insisted that her visitors should stop and talk with her. She was tired, every tired, just for some one to talk to, she said; but she laughed gaily now that she was getting well, and seemed to be bearing the seclusion of a sick-room very well.

Mr. Henry, the sailor who was hurt on the head while going over the bar on an English vessel some time ago, is getting along nicely, as well as a Mr. Jackson, who had a severe attack of typhoid fever.

On this floor is the chapel, with its beautiful altar and the sanctuary lamps continually burning, so that inmates can offer up their prayers at any time, between prime and compline, if so disposed.

The pharmacy, which is a miniature apothecary shop, is in charge of one of the sisters, and with its scales and vials looked as neat as a new pin. Here all the prescriptions wanted by the patients are compounded.

There are 19 private rooms and 22 cots, all bright and cheerful, and looked after with experienced eyes as to their cleanliness.

The present Sister Superior has been at St. Mary's only two years, having come here from Portland in 1892.

SMOKE! SMOKE! SMOKE! SMOKE!

If you want any thing good to smoke, Key West, imported, or domestic, you must go to Chas. Olsen.

THE RAILROAD QUESTION.

The Statesman of Thursday has the following: "In conversation with a gentleman yesterday in Salem it is learned that the estimated cost of the main line of this new railroad, better known as the Astoria-Goble route, is \$1,250,000. The distance is 57 miles, and the line as surveyed will follow the Columbia river so far as practicable. Supreme Judge F. A. Moore, of this city, at present, was one of the principals in securing the right-of-way for this new line; the judge was also the right-of-way agent for the Union Pacific and Great Northern in securing the route from the Columbia river to the Sound. A short distance from Goble is Columbia City, Columbia county, and within a few hundred yards of the Northern Pacific depot there are croppings of coal which show it to be of exactly the same quality as the Vernonia coal found for a distance of about 15 miles west in the Upper Nehalem valley. It is still further asserted that it is comparatively useless to go to the expense of constructing and equipping a branch line from the proposed new road to the Vernonia coal fields when the same quality of coal can be taken from the earth at a more convenient point."

PERSONAL.

Lieut. Bligh is visiting in Portland.

Robert Chabot, of Ilwaco, is in the city.

Harry Bell came up from Seaside yesterday.

S. Schmidt, of Portland, is a guest at the Occident.

J. W. Epley, of Portland, came down the river yesterday.

F. P. Kendall will go to Portland on this evening's steamer.

Capt. Richard Hoyt, of the dredger W. S. Ladd, was about the city last night.

CHANGE OF ADDRESS.

Mrs. Christine Nissen, Teacher of the Piano and Organ, has removed to the house of Mr. M. Larson, Berrington, W. Fifth street, at the back of Scow Bay Foundry, and opposite the Finn church.

BOARD AND LODGING.

FIRST CLASS BOARD—With or without rooms, at reasonable rates. Apply at E. C. Holden's, corner Main and Jefferson.

LOST.

LOST—A city warrant for \$15. The number is 6,648, and the warrant was endorsed on November 9. Finder will please return to Fred. Sherman.

LOST—A black clasp purse, containing a sum of money. Finder will please leave at this office.

WANTED.

WANTED—A well located city lot. Must be a bargain. Owners only. Address P. O. Box 995, Portland, Ore.

MANAGER WANTED—To appoint salaried men to sell the Rapid Dish Washer. Washes and dries the dishes in two minutes without wetting the fingers. \$75 a week and all expenses. Easy position; no capital; no hard work; can make \$100 a week. Address W. P. Harrison & Co., Clerk No. 14, Columbus, Ohio.

AGENTS—Makes \$5.00 a day. Great kitchen utensil never invented. Details \$500. 2 to 6 sold in every house. Sample, postage paid, five cents. Forshree & McKelvin, Cincinnati, O.

FOR SALE.

FOR SALE—Daniel H. Jory's house and two lots, in block 56, Adair's Astoria. Inquire on premises, or of Edward Adams, on block 58.

CHANCE FOR ALL—Men of small means can buy real estate in Hill's first addition.

LOTS FOR \$2—Call at the Astoria Real Estate Exchange and get a lot in Hill's First Addition for \$2.

JAPANESE CURIOSITIES.

Wing Lee has just received a full line of Japanese curiosities and fancy goods. Will sell at cost. 529 Third street.

MISCELLANEOUS.

MONEY TO LEND—On good inside real estate. Address Room 709, Chamber of Commerce, Portland, Oregon.

HOTEL—Remember McGuire's Hotel at Seaside is open the year around.

CALL ON P. BAKER, 478 Third St., and have your clothes dyed and cleaned.

SEWING MACHINES—And general repairing, lock-fitting, etc. C. A. May, 122 Main street.

GEO. McLEAN, corner Olney and Astor streets, does a general business in blacksmithing and repairing.

WHEN IN PORTLAND—Call on Handley & Haas, 150 First street, and get the Daily Astorian. Visitors need not miss their morning paper while there.

YOUR FRIENDS IN EUROPE—If you have friends in Europe whose passage you wish to prepay to Astoria, call at the Northern Pacific office, steamer Telephone Block, and make known your wants. Reduced fare via all the leading steamship lines.

ARE YOU GOING EAST? Patronize the Northern Pacific railroad if you are going East. Low rates of fare, through tickets, baggage checked to destination. All purchasers of second-class tickets can stop over at Portland. Rates of fare same as from Portland.

Portland and Astoria.

STEAMER TELEPHONE.

Leaves Astoria every evening except Sunday at 7 p. m.

Arrives in Astoria every day except Sunday at 4 p. m.

Leaves Portland every day except Sunday at 7 a. m.

C. W. STONE, Agt. Astoria.

E. A. Seelye, general agent, Portland.

BEVERAGES.

FINE WINES AND LIQUORS—Call at August Danielson's Sample Rooms.

ONLY THE PUREST Wines and liquors are sold at Alex Campbell's Gem.

A DELICIOUS DRINK—There is no place in Astoria where John Kopp's famous beer is kept in such good condition as at Utzinger's popular resort.

WINES AND BRANDIES—Use Zinfandel wine instead of coffee or tea. Fifty cents per gallon. Don't forget peach and apricot brandy. Also French Cognac and wine at Alex Gilbert's.

SOCIETY MEETINGS.

PILOT COMMISSIONERS—The regular meetings of this board will be held on the first Monday of each month at 10 a. m., at the office of Holbo & Parker, W. L. Robb, Sec.

NOTICE—The regular meetings of the Astoria Building and Loan Association are held at 8 p. m. on the first Wednesday of each month. Office on Genevieve street, south of Chenamus. W. L. ROBB, Secretary.

OCEAN ENCAMPMENT No. 13, I. O. O. F.—Regular meetings of Ocean Encampment No. 13, in the Odd Fellows' Building, at 7 p. m., on the second and fourth Mondays of each month. Sojourning brethren cordially invited. By order C. F.

COMMON COUNCIL—Regular meetings first and third Tuesday evenings of each month at 8 o'clock in city hall. Persons desiring to have matters acted upon by the council at any regular meeting must present the same to the auditor and clerk on or before the Friday evening prior to the Tuesday on which the council holds its regular meeting.

K. OSBURN, Auditor and Police Judge.

PROFESSIONAL CARDS.

H. A. SMITH, DENTIST.
Rooms 1 and 2, Pythian Building, over C. H. Cooper's store.

W. C. LOGAN, D. D. S., DENTAL PARLORS.
Mansell Block, 573 Third street.

J. E. LAFORCE, D. D. S., HAS DENTAL PARLORS.
—in the—
Flavel building, opposite Occident.

FULTON BROS., ATTORNEYS AT LAW.
Rooms 2, 4, 5, and 6, Odd Fellows' Building, Astoria, Oregon.

W. M. LAFORCE, ATTORNEY AT LAW.
Office, Rooms 7 and 8, Kinney's building.

SILAS B. SMITH, ATTORNEY AT LAW.
Office in Flavel's brick building.

FRANK J. TAYLOR, ATTORNEY AT LAW.
Astoria, Oregon.

J. Q. A. BOWLBY, ATTORNEY AND COUNSELOR AT LAW.
Office on Second Street, Astoria, Or.

DR. O. B. ESTES, PHYSICIAN AND SURGEON.
Special attention to diseases of women and surgery.
Office over Danziger's store, Astoria.

JAY TUTTLE, M. D., PHYSICIAN, SURGEON, AND ACCOUCHEUR.
Office, Rooms 2, 4, over Astoria National Bank. Hours, 10 to 12 and 2 to 5. Residence, 539, Cedar street.

DR. STRICKLER, PHYSICIAN AND SURGEON.
—Dealer in—
DRUGS AND DRUGGISTS' SUPPLIES.
357 Second Street, Astoria.

BUSINESS CARDS.

F. WICKMAN, CONTRACTOR.
House moving and street planing. Screws and blocks for rent. Call on or address 2087 Pine street.

A. GIBBONS, ADJUSTER OF ACCOUNTS and PROFESSIONAL BOOKKEEPER.
Office, with General Messenger Co., 515 Squemoque street.

J. H. MANSELL, REAL ESTATE BROKER.
Notary Public. Fire and accident insurance.

W. W. PARKER, REAL ESTATE AND INSURANCE AGENT.
Office, 112 Benton street, Astoria, Or.

I. R. & N. CO.'S Steamer Ilwaco.

Leaves Astoria daily at 7:30 for Ilwaco, calling at Tazewell Point, and connecting with railroad running north at 10 a. m., and with boats on Shoalwater bay for SOUTH BEND, SUNSHINE, NORTH COVE, and other points through to GRAY'S HARBOR. Returning, connects at Ilwaco with steamers for Astoria, and NIGHT BOATS FOR PORTLAND.

JOHN R. GOULDER, Secretary.
L. A. LOOMIS, President.
R. V. ROBERT, Superintendent.

TO SUBSCRIBERS—Those who do not receive their papers regularly and on time should notify this office. If the papers delivered by carriers are wet or in bad condition, don't fail to make complaint at the business office.

I. W. CASE, Insurance Agent.
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Union Fire and Marine, of New Zealand.
National Fire and Marine Ins. Co., of Hartford.
Connecticut Fire Ins. Co., of Hartford.
Home Mutual Ins. Co., San Francisco.
New York Plate Glass Ins. Co.
Phoenix, of London.
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Largest stock of Fishing Tackle and Bamboo Poles. The Trade Supplied.

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Only handled over the bar. The largest glass of N. P. Beer. Half-and-half, 5c.

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Special attention paid to steamboat repairing, first-class horseshoeing, etc.

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TRANSAKS A General Banking Business

Accounts of Firms and Individuals solicited on favorable terms.

Foreign and Domestic Exchange bought and sold.

Money loaned on personal security. Interest paid on time deposits as follows:

For 3 months, 4 per cent per annum

For 6 months, 5 per cent per annum

For 12 months, 6 per cent per annum

A Savings Department.

Having been established in connection with the above, deposits will be received in sums of one dollar and upward.

Interest will be allowed as follows: On ordinary savings books, 4 per cent per annum; on term savings books, 6 per cent per annum.

D. K. WARREN, President.

J. E. HIGGINS, Cashier.

J. C. DEMENT, Vice-Prest.

D. K. WARREN, J. C. DEMENT, C. S. WRIGHT, JOHN HOBSON, H. C. THOMPSON, THEO. BRACKER, Directors.

THE ASTORIA SAVINGS BANK